

The Trial: Jack Carmen's day in court

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At 9:29 pm, the first murmur went through the crowd milling in the lobby of the ninth floor at the Franklin County Hall of Justice. At first it was just a rustling as people turned and looked toward the double doors leading to courtroom 9B. Judge Fred Shoemaker, now in shirtsleeves and a vest, broke away from a conversation and moved toward the door.

"The jury's coming in," someone called out, and the rush was on. By now it was an instinctive reaction: get to a seat fast or you wouldn't get one. But there was no problem now. The mobs that had stood along the walls and jammed the aisles and spilled out into the lobby itself only a few hours earlier had gone home for dinner, and most had not come back. Only the regulars were there—the 75 or so people who had not missed a minute of testimony during the six days of trial.

The small core of newsmen and photographers who had followed the trial all week and the case itself for more than two years had been joined by colleagues as the days wore on and the story got bigger and bigger.

There were friends and supporters of the man accused of murder, most of whom had maintained for 28 months that an innocent man was in jail.

There were the two defense attorneys—nervous, pacing, almost physically ill from the tension.

And there was the family of the teenaged girl who had been bludgeoned to death more than two years earlier. Everywhere, it seemed, there was family—the mother and father, grandfather and grandmother, sisters, aunts, uncles, cousins.

There were others, too, of course. There were the non-participants, people who had been in the courtroom every day simply because they were interested or curious after hearing news accounts about one of the most dramatic and bizarre trials in the city's history.

"Get my robe," Shoemaker said to his bailiff, Steve Cahill; and casual and down-home as he had been all week, the judge put it on as he stood at the front of the courtroom. Everyone listened as Shoemaker read aloud a note passed out by the jury foreman asking for assistance. Shoemaker sent Cahill back to the jury room with his handwritten reply, and in only a few minutes the word came out that the jury had reached a verdict.

Patty Tyack, wife of one of the defense lawyers, who was watching her husband in a courtroom for the first time, saw him gasp for breath and shudder, his face ashen. "This trial has been so grueling," she said, almost to herself. "There's never been anything like this for us."

"Where's Jim O'Grady?" yelled Cahill across the room. "He's on the way," Deputy Sheriff Jack Reiser shouted back. O'Grady was down on the fifth floor

in Franklin County Prosecutor George Smith's office, drinking beer and waiting with police and other prosecutors.

Shoemaker asked Reiser to bring the defendant back into the courtroom, and the deputy unlocked a door and went into the holding cell area just off the courtroom. He unlocked the cell and Jack Carmen, accused murderer, came in. Carmen wore the same blue pants and blue and brown sweater he had worn throughout the trial; he looked as unemotional as he had each day since the jury had been chosen on the morning of Dec. 12.

"Have you reached a verdict?" Shoemaker asked the jury. "We have," two jurors answered simultaneously, and then jury foreman Russell Smith answered officially: "Yes, sir."

Tom Tyack nudged Carmen to his feet and stood beside him, with co-counsel David Riebel standing to his right. Across the room, prosecutors O'Grady and Ron O'Brien also stood.

Judge Shoemaker began reading the verdict. "On the charge of kidnapping: not guilty." Tyack put his arm around Carmen, and Carmen, a full eight inches taller than his attorney, threw his arm over Tyack's shoulder.

"On the charge of rape: not guilty." There was no sound now in the courtroom, but the spectators sensed the result, as Tyack and Riebel grabbed each other's shoulders. O'Grady looked across at the defense table and smiled, a tight smile that betrayed the emotion and pressure he felt.

"On the charge of aggravated murder committed with prior calculation and design: not guilty."

Now it came quickly: Not guilty on aggravated murder during commission of kidnapping; not guilty on aggravated murder during commission of rape.

Tears were pouring down Patty Tyack's face. Many in the audience were crying; others ran to the defense table to throw their arms around Tyack and Riebel. Both defense attorneys were crying.

Jack Carmen would later that night walk out of the Hall of Justice with his belongings in a paper bag. After spending nearly 28 months in Franklin County jail for the August, 1975, murder of Christie Mullins, this mentally retarded ward of the state had finally had his day in court . . . and been found innocent.

"Do you want to come home with me?" yelled Graham LeSturgeon, leaning through a crush of newsmen who gathered around Carmen. LeSturgeon, head of the local Volunteers of America, had testified in court that Carmen was at the VOA on the day of the murder.

"I sure do," Carmen replied, and then he was engulfed by newsmen. Carmen answered questions from reporters with surprising clarity. Where would he live? What would he do? How had he been treated? Deputy Sheriff Reiser finally tapped him on the shoulder and told him: "C'mon, Jack. Say 'Merry Christmas' to these folks and let's go."

"Merry Christmas," Carmen repeated obediently, and rose to leave.

Twenty minutes later Carmen had gathered his meager possessions and checked out of the lower level of the Hall of Justice. It was 10:15 when he walked through the Front Street door and to the waiting car of Jennifer Groce of the Justice for Jack Committee.

"Merry Christmas," he said again to the people nearby. Then he got into the car and was driven away. It was six days till Christmas, and Jack Carmen was free.

Jack Carmen's acquittal closed a chapter in one of the most troubling murder cases Columbus has ever seen. Almost from the moment Christie Mullins' head was smashed by a two-by-four behind Graceland Shopping Center, the north side neighborhood was riddled with rumors, accusations, counter-accusations and bitter controversy.

In most well-publicized criminal cases, the arrest, confession and conviction of a suspect is enough to quiet public furor. But Jack Carmen's rapid-fire arrest, confession and conviction only fueled the debate. Carmen's mental retardation—he is said to have a mental age somewhere between nine and 13—contributed to his becoming a cause célèbre.

The husband and wife who said they had seen Carmen kill Christie Mullins—Henry and Pam Newell—were themselves controversial. There were rumors of drug deals, nude swimming parties, police conspiracies. From the very beginning, some people from the neighborhood pointed fingers at Newell himself as a more likely suspect in the murder than Jack Carmen. "Carmen didn't do it," one neighbor told reporters candidly more than two years ago. "I think Henry Newell killed her."

Adding to the doubt was the fact that police wrapped up the case so fast.

The Newells provided police with a description of the man they said they saw, and three days after the murder, on Aug. 26, 1975, police patrolman Tom Stroud picked up a man on a downtown street corner who resembled the sketch. Police had Carmen sign two waivers of his rights. They also interrogated him for more than six hours before obtaining a taped confession.

Attorney Myron Schwartz then talked to representatives of the state's Division of Mental Retardation and agreed to represent Carmen. He quickly determined that Carmen was guilty and approached Assistant County Prosecutor Ron O'Brien with a plea bargain request. The prosecutors agreed. Carmen pleaded guilty to one count of aggravated murder and was sentenced to life imprisonment. Eleven days after the murder was committed, the case was closed.

The neighborhood around Graceland erupted in protest. Petitions were circulated protesting the police investigation, and an angry crowd met with police officers at an open meeting. The parents of the murdered girl became the most outspoken critics of police.

After trying briefly to talk to angry residents, police backed off and refused to talk. A man was guilty by his own admission, they said, and the case was closed.

In the 28 months that followed, the case took a series of legal twists and turns as a procession of judges and lawyers thrashed about. Through it all, Jack Carmen sat in the Franklin County jail, unaware and uncomprehending, his lawyers said, of all that was happening.

Finally, in what would be likened to a Perry Mason courtroom drama by those who watched it unfold, Jack Carmen came to trial for the murder of Christie Mullins.

More than two years earlier, Shirley Foster, a neighbor of Christie Mullins, had told reporters: "Neighbors are saving up vacation time so they can go to the trial. When that trial comes it'll take two courtrooms to hold all the people."

When the Carmen trial finally began on Dec. 12, they were ready.

The first day

Monday, Dec. 12

Assistant prosecutor Ron O'Brien should have known from this first day that it might not be his week. It was sloppy and slushy outside and O'Brien had forgotten to bring his boots. His opponents, Tom Tyack and David Riebel, had not forgotten—nor would they forget much else during the week to come. The attorneys, Judge Shoemaker, the jury and press went by bus to the murder site near Graceland Shopping Center, where they disembarked and got their feet wet, and to the Volunteers of America headquarters where Jack Carmen lived and worked at the time of the murder. Carmen followed in a sheriff's cruiser, and several other people, including Norman Mullins, the father, were in a caravan of autos trailing behind.

"If I fall down I'm gonna be damned mad," O'Brien muttered as he came slipping down out of the COTA bus into the slush where Christie Mullins was killed. O'Brien didn't fall down; he merely picked up a nasty white salt ring around his black shoes. Riebel and Tyack traipsed obliviously through the wet, showing jurors exactly what they wanted them to see.

At one point O'Brien protested the defense attorneys' insistence that jurors see an obscure area north of Graceland, near where the Mullins family lives. "This has nothing to do with the case," he argued, but Riebel and Tyack were running the show and O'Brien yielded in his protest.

It was actually a light-hearted excursion overall. Jurors were smiling and relaxed, helping one another up and down snowy paths and hills. At one point, Judge Shoemaker stood atop a six-foot-high pile of snow in Graceland, helping jurors climb to the top so they could look down a path Christie Mullins supposedly traveled to her death.

When the jury was dismissed for the day directly from Graceland, there was little that had occurred that first day to indicate that this would rapidly become the most dramatic trial in Columbus history. There had been a few newsmen who covered the entire day—Bob Singleton of WCOL Radio, Terry

Jessup of Channel 4, John Switzer of the *Dispatch*, Harry Franken of the *Citizen-Journal* and Larry Hudson of WOSU Radio—but nothing like the deluge of reporters that would finally converge on the trial in its closing days.

Earlier in the day, after the selection of the jury, the prosecution and the defense had presented their opening statements. O'Brien had handled opening remarks for the prosecution, and he had delivered a straight, chronological account of the murder and the arrest of Carmen. It was without theatrics, and O'Brien seemed nervous. Two years earlier, O'Brien had told newsmen he was ready to try Carmen anytime, that he was totally confident that police had the right man. Now, after the long delay, he was known to be at least a little uncertain about the outcome.

The opening day fireworks, mild though they were in comparison to later in the week, came when Tyack delivered the defense's opening remarks. "It is not our job to prove who really killed Christie Mullins," Tyack said. "But we have spent a long time on this case and we have some ideas. When you hear all the evidence we think you will have some ideas too."

It was the first indication that Tyack and Riebel intended to try to do exactly what the Mullins family and other Graceland-area neighbors had hoped, which was to break the case wide open by pointing the finger at the eyewitness, Henry Hester Newell Jr.

Sitting at the defense table directly in front of the press section in the courtroom, Riebel leaned back and spilled out the game plan to listening newsmen: "We've got our three-I defense all set for this case—alibi, dumb-i and soddi," he said, grinning, waiting for newsmen to ask what the hell he was talking about. "Alibi means we know Jack wasn't at the murder site at the time police say," he continued, when the question didn't come. "Dumb-i means that Jack isn't smart enough to have given a detailed confession. And soddi means some other dude did it."

It was mildly amusing to newsmen, but it was a pattern that would remain consistent throughout the trial. The defense attorneys, particularly Riebel, courted the press constantly, conferring with various newsmen regularly, flipping pieces of peppermint candy their way, and even handing notes back into the press section. The prosecution team of chief criminal prosecutor Jim O'Grady and O'Brien, on the other hand, seemed constantly on the defensive, wary not only of the news media but of the obvious opposition they sensed throughout the courtroom audience as well. "Our problem is the long time delay," O'Grady said, when asked that first day to assess the prosecution's chances. "It's always hard to prosecute a case a long time after the crime has been committed."

And Tyack and Riebel certainly gave every outward appearance of being in control during the opening days. "Are you saying you'll prove that someone else killed Christie Mullins?" the *Dispatch's* Switzer asked Tyack during the bus trip up to Graceland. "Naw, I'm not saying that," Tyack responded. But he and Riebel looked at each other and grinned.

The second day

Tuesday, Dec. 13

The second day of the trial belonged to the prosecution, and they tried to make the most of it. The morning was spent calling police witnesses who testified to the technical findings in the case—the cruiser man who described the scene and the body, the crime scene search unit crew, the photographer, fingerprint man, police pathologist. Then, just as the prosecution was about to call its first big witness, a juror became ill. Judge Shoemaker rushed to the back room, came out and announced to the courtroom that he would recess until 1 o'clock that afternoon. It was eventually learned that the juror suffered a mild heart attack and was hospitalized. He was replaced by one of the two alternates who had been selected the previous day.

The afternoon session began with a bang. Carol Reeves took the stand, and the 16-year-old girl was everything the prosecution could have hoped for—cool, poised, exceptionally mature. She seemed to be amused by it all, however, relaxing in the witness chair and constantly fighting to hold back a grin as she testified.

When she first took the stand, the two defense attorneys suddenly jumped up, calling for a separation of witnesses. From the start it had been a unique trial, because neither the defense nor the prosecution had requested that witnesses be kept out of the courtroom, and it meant that many people who would eventually testify were sitting in on the whole trial. Judge Shoemaker seemed surprised and somewhat angry. "I thought we had an agreement not to separate," he said, before calling all four attorneys into his chamber. When they came out it had been resolved, and Riebel and Tyack withdrew the motion to separate.

The prosecution asked Carol Reeves to begin. She told how she and Christie Mullins had been swimming at Broadmeadows Apartments pool that Saturday when Reeves' 10-year-old sister (also named Christie) came to tell her that an unidentified man who had called her several times earlier in the week was once again trying to reach her. She ran home, she told the jury, and the man called again about 1 pm.

"He said he was a deejay. I don't know what station. He said there would be a cheerleading contest that afternoon at Graceland at a quarter to two," Carol testified. She said the man had a "hillbilly accent" and stuttered some. Carol said they talked on the phone "for about 15 minutes" and that the man asked her if she knew the shortcut through the woods to the shopping center. Carol said she left her home with her sister and started down the street toward the path that led to Graceland. She testified that she saw Christie Mullins along the way, asked her to go with her to the contest, and then sent her sister back home. She and Christie went on to the shopping center and sat on the railing on the north side of Woolco, she said.

Carol told the jury that she went into the Woolco store to see what time it was, leaving Christie Mullins combing her hair as she sat on the railing. When she came out, she said, Christie was gone. Carol's shoes were still where she had left them, she said. Carol said she waited at that spot "for about five minutes" and then went down the path and sat on a big rock for about 15

minutes. She said she did not hear anything and did not see the Newell family during that time.

She testified she then went to a friend's home, and didn't hear about the murder until later that night. It was a solid testimony, consistent with what the Reeves girl had told police before, and the prosecution seemed happy.

During cross-examination, Riebel tried to knock holes in her testimony by planting doubts about why the two girls went to the shopping center. "How well did you know Christie?" Riebel asked. "Not too well," Carol replied.

"Didn't you know her well enough to smoke pot with her?" Riebel continued. "You don't have to know someone well to do that," the 16-year-old coolly responded.

One surprising piece of testimony came when Riebel asked her why she initially took her younger sister with her. "I took her with me, but I told her, 'In case this is something it's not supposed to be, I want you to run.' "

Riebel seemed stunned. "So you did not think it was on the up and up?" he followed. "Right," Carol said.

But Riebel let that drop and went on to other areas. "Do you know Henry Newell?" he asked. "No," she responded.

"Did you ever babysit for him?" he continued. "I did not," she said firmly.

"Did you speak to Mrs. Mullins on Sunday after the murder and tell her you were sorry and that you didn't mean for it to go that far?" Riebel asked. "I might have said I was sorry," Carol said. "I don't remember anything else."

During the 15-minute afternoon recess, Riebel explained why he and Tyack had suddenly called for a separation of witnesses. "We thought we saw Carol Reeves' sister come into the courtroom," Riebel said. "This is really unusual," he went on. "We would normally ask for separation, but that would mean Norman Mullins would have to go out in the hall, and we want to allow him to stay. We talked to O'Brien about separating all the witnesses except Norman, but he said, 'No, if any of 'em go out, they're all out.' After what Norman Mullins has been through, we think he has a right to hear what happens in here," Riebel said. As it turned out, neither Christie Reeves nor Norman Mullins was ever called to testify.

The prosecution brought on two other witnesses, a police officer who testified about photos and the fingerprints, and Dr. Nobuhisa Baba, deputy Franklin County coroner, who said he found no evidence of rape, that the victim was still a virgin, and that she may have died 10 or 15 minutes after the fatal blows were struck.

Then the prosecution called one of the two alleged eyewitnesses, and the courtroom grew tense as Pam Newell took the stand. The wife of Henry Newell told the jury that she and her husband and two children were at home at 343 Kanawha Ave. on the Saturday morning when Christie Mullins was killed. Her husband left the house only once, she responded when asked, and that was to chase some kids who were throwing firecrackers. She said her

son Bobby wanted to walk in the woods, and her daughter Mary wanted to buy a puppet at Woolco, so the family decided to go to Graceland.

Pam said they parked the car at "twenty to two, or a quarter to two" on the north side of Woolco, at approximately the same spot where Christie Mullins reportedly was abducted. She said all four of them walked in the woods, and that farther down the path they saw "that man Jack Carmen," she said, nodding toward the defendant. "He had a two by four and he was hitting at something . . . I couldn't see what he was hitting at," she said.

She said the man looked up, saw them and ran. Only then, Pam said, did she and her husband see the body on the ground. She said her husband pulled the board off Christie's face and threw it away. Pam said she checked the dead girl for a pulse. Then they ran all the way to Woolco and called police.

It was damaging testimony for Carmen, it seemed: thorough, complete, without major omissions or holes. Only the credibility of the witness was vulnerable, and that's what Riebel attacked in his cross-examination.

Moving directly behind Jack Carmen, who was sitting as always gazing into space, apparently not looking at anyone, Riebel grabbed the defendant's head, jerking it upright. "Who am I standing in front of?" he demanded of Pam Newell. "Jack Carmen," she replied. "Which side of Jack Carmen did you see? Right? Left? Where were you standing? How was he standing?" Riebel fired questions at her; but after minor confusion on direction, she handled them well.

"Where did you leave the kids?" he asked. "I told them to sit down," she answered. "Did they do it?" Riebel followed. "Yeah . . . they do what I tell 'em," she responded.

The only chink in Pam Newell's testimony came when Riebel got her to admit that she had lied about previous marriages when she obtained a license to marry Henry Newell in October, 1973. "Did I lie?" she repeated after Riebel asked her the question. "We were only gonna get married. We were not gonna do anything else. Yes, I lied."

It was small consolation for the defense. "They're getting in their licks," Riebel said, after Shoemaker had recessed for the day.

"I feel great about today's testimony," said O'Brien. "They didn't touch Pam Newell . . . she came off great. And Carol Reeves did a good job too. She's very poised for a 16-year-old."

Several newsmen were standing near the defense table talking to Riebel when Tyack walked up and said something to him. Riebel's face brightened, and Tyack grinned. "This man is a genius," Riebel said, grabbing Tyack's arm. "He's a bona fide Phi Beta Kappa genius." Tyack just shook his head, grinned and walked away. But it left the press wondering what Tyack had just come up with that so brightened the defense attorneys' day.

Riebel and Tyack were about to leave the courtroom when Phyllis Mullins stopped them. She was upset, she said, about some things Carol Reeves and Pam Newell had testified to, things she said she knew were false. It was a

continuation of the strange pattern that enveloped the Carmen case from the beginning—with the parents and family of the murdered girl openly suspicious of the charges against Carmen and equally direct in their accusations that someone else did it.

Norman Mullins rushed up to where Riebel and Mrs. Mullins were talking and began to add his comments. "Please, I can only talk to one at a time," Riebel insisted, trying to get the father to leave. But Norman persisted. "Norman, you and I are gonna fight . . . now get away and let me talk to your wife." Mullins finally backed off, mumbling.

"We know he's been through a lot, and we just want to be nice to him, but he's just impossible," said Tyack, watching the whole affair from a few feet away.

The third day

Wednesday, Dec. 14

"I've been waiting for this trial for two and a half years," said Terry Jessup, as the Channel 4 reporter looked for a seat in the courtroom at the start of the third day of the trial. Indeed, Jessup was one of three or four newsmen who had covered the sensational murder case from the beginning and had grown more involved and more interested as the months wore on into years.

Jessup, along with Bob Singleton of WCOL Radio, obviously knew more facts and more people in the Carmen case than almost anyone else, including the attorneys trying the case.

Press coverage was growing more intense now: Channel 10 had Paul White sitting through each day, and the *Dispatch* was using both Ned Stout and John Switzer. And for some reason, the deputies had removed the entire front row of permanent seats in the press section on the left side of the courtroom, leaving about six feet between the first seats and the railing beyond which Jack Carmen and the defense attorneys sat.

"Did you do this?" one newsman asked Riebel, pointing toward the missing seats. Riebel merely gestured toward the sheriff's deputy standing nearby. "When anything happens in court, always look to those guys first," Riebel said.

It made no difference. Within minutes, the space was filled with movable chairs.

The courtroom was full. The crowd filled the back of the room and spilled out into the lobby. This was to be the prosecution's big wind-up. O'Grady and O'Brien had both said the prosecution would rest by the end of the day, and still to come were Henry Newell—who was rapidly becoming the most talked-about person in the trial—and the long-awaited confession of Jack Carmen.

The prosecution wasted no time calling Newell to the witness stand. He was brought in the side door from the holding cell, the same door Carmen had been using each day. He was accompanied by a deputy sheriff, and he was dressed in prison blue, having been brought up from Chillicothe Correctional

Institute the day before. He was currently serving a sentence on an arson conviction, having burned his own home down last year.

Newell's story was like his wife's. He told of going to the shopping center with his family, of walking in the woods and seeing Carmen hitting at something on the ground with a board. He said when he and his wife found the body, the girl was frothing blood from the mouth, and he pulled the board from her head and threw it. He said he wanted to carry the body back to Woolco, but that his wife checked her pulse and said she was dead. He covered her face with his shirt, he said, and then went to call police. Like his wife's, his testimony was thorough.

The defense attorneys had been waiting for Newell, and they attempted to corner him quickly in the cross-examination. Newell, 27, had been in jail three times, Tyack established, and had twice tried to escape—"I walked away," Newell said.

Under rugged cross-examination, Newell admitted he had a key to the Broadmeadows Apartments pool where Christie Mullins and Carol Reeves often swam. He did not know either girl, he insisted, although Tyack kept hammering away on that point.

"Have you ever been swimming in the Broadmeadows pool with Carol Reeves when she didn't have any clothes on?" Tyack demanded.

"No," Newell replied, his gaze steady on the defense attorney.

"Did you know Christie Mullins?" Tyack went on.

"No."

"Was she ever in your house?"

"No."

"Was she ever in your car?"

"No."

The confrontation was fierce, and there was no sound in the courtroom now. The crowd was tense, leaning forward, listening.

Tyack went to the blackboard and drew an imaginary outline of the railing surrounding the Woolco store. Then he asked Newell to draw an "x" where the Newells had parked their car before walking in the woods. Newell put the mark at the same spot Carol Reeves had said she left Christie Mullins. It was about 1:45 pm, Newell said.

No, he answered, he did not hear any screams; no, he did not see anyone else; no, he did not see a pair of shoes by the railing. How was Newell himself dressed, Tyack asked. He was wearing cutoff jeans, no shoes; also he had not shaved that morning, Newell answered. Tyack moved closer and closer to the point he was trying to make—that Newell himself, on the day of the killing, fit the description of the killer he and his wife gave the police.

"Didn't you and/or your brother Tommy make phone calls saying that you were disc jockeys?" Tyack demanded. "No," Newell replied.

Newell also denied, despite heavy questioning, that he had been allowed by police to see Carmen at Graceland before being taken downtown for a lineup, at which time he and his wife identified Carmen as the man they saw in the woods.

Overall it could have been a devastating cross-examination, but Newell had weathered it with his testimony intact. He had been seriously damaged as a witness, but no one was sure what the jury's reaction had been.

"We're starting to get somewhere now," Riebel said, handing out more peppermint candy to a newsman, "and we haven't even started the defense yet."

O'Brien, though, had a different view. "Things are going pretty well. We knew they'd attack Newell; after all, he's no virgin. But he came through it pretty well."

O'Brien and O'Grady both were growing more and more upset with Riebel and Tyack, though, because "They've got stuff [information] they shouldn't have," O'Brien said. "Addison [Carmen's second attorney] copied all our records and gave them to them. That's against a court order and it's not fair," O'Brien said.

"We can't do anything about it now," O'Brien continued. "The cow's out of the barn and it wouldn't do us any good to object."

Riebel and Tyack, although never saying how they got the material, did admit that they had all the prosecution's records. Riebel even teased the prosecution about it, at one point casually mentioning to O'Grady: "I wish we had all your records." "You have," O'Grady snapped back, and walked away.

Once past the Newell cross-examination, the prosecution was ready for the big finish: the Carmen confession. Three police officers who played an important role in the confession and the entire investigation—Sgt. John Tilley and detectives Robert Litzinger and Ron Price—were called. Tilley and Litzinger had been the homicide officers who had originally arrested Carmen after he had been spotted on a street corner by patrolman Thomas Stroud. Price had conducted the tape-recorded interrogation which was the cornerstone of the prosecution's case.

Tilley came first, a big man, tall, heavysset, with an easy style and a soft voice. He told of picking Carmen up on Aug. 26, and of noticing scratches on his face. His first question to Carmen, he said, was "Did you kill her?" He said Carmen answered, "I didn't mean to."

Tilley admitted Carmen could not give narrative answers, but would give one-word responses to questions. He said he even tried to trick Carmen into giving wrong answers, trying to determine if he was lying about his involvement in the murder. Tilley became convinced, he said, that Carmen was telling the truth.

"I asked him to describe her underwear," Tilley told the jury. "He said 'thick underwear.' I told Carmen they couldn't be thick, that they were lacy. Jack insisted that they were thick."

Christie was wearing bathing suit bottoms under jeans at the time she was killed.

Tilley said Carmen agreed to show police the scene of the crime, so he and Litzinger drove Carmen to Graceland. Tilley said he had not been there yet himself at that time.

Tilley told how Carmen showed police where the attack took place, and other details. Tilley said that he and other officers became more convinced of Carmen's guilt based on things he said during the trip to Graceland and while he was at the scene of the crime, and that police then decided to arrange for a lineup at police headquarters for the Newells to identify the suspect.

It was effective testimony. O'Grady conducted the questioning crisply and smoothly, and Tilley was a solid witness. But the police had made one important mistake in taking Carmen to Graceland, and defense attorney Riebel jumped on it quickly.

"Why did you take Carmen to Graceland?" Riebel asked, opening up the cross-examination. It was for a dual purpose, Tilley replied; to get an identification from a woman named Margaret Barton, who claimed to have seen a man running on the day of the murder, Tilley said, and also to get more information from Carmen about the murder site.

But there was no way Tilley could avoid leaving the impression that this part had been botched by police. Letting Barton see Carmen before a lineup could be properly conducted had ruled her out as a potential witness, and even worse, Henry and Pam Newell were also driven to the shopping center by police for the same reason. Tilley insisted that the Newells did not see Carmen then, but did not deny that only a last-second move—when he waved the police cruiser away—prevented police from blowing their only remaining witnesses who could identify Carmen. "It was just a mixup in communications," Tilley explained to Riebel. Still, the defense attorneys used the fact that the Newells had been brought to Graceland to imply that police had deliberately shown Carmen to them so they would have no trouble picking him from a police lineup downtown.

Riebel also hammered hard at Tilley for allowing Carmen to sign a waiver of rights statement. "How would you describe his [Carmen's] reading ability?" Riebel asked. "He hasn't any reading ability," Tilley replied.

"How would you describe his comprehension ability?" Riebel followed. "Very, very poor," Tilley responded.

Tilley had had Carmen sign two waivers, and Riebel asked why. "At 7:07 Jack knew what he was signing," Tilley said. "Three minutes later he might not know what I'm talking about. I wanted to make sure he understood."

It was a damaging admission. Tilley was saying he was not sure Carmen understood that he was waiving all rights, and therefore he had had him sign twice.

Tilley said Carmen had been placed under arrest at 10:25 pm—about five hours after he had been picked up. "How did he act when you told him he

was under arrest?" Riebel inquired. "He acts the same now as when I told him he was under arrest," Tilley responded. Several members of the jury looked at Carmen. He was facing down, unresponsive, not a flicker of comprehension on his face. As was the case throughout the trial, Carmen did not look at witnesses on the stand, and he did not confer with his attorneys.

The prosecution next called Litzinger, who told how the police lineup was conducted, and how the Newells both picked Carmen from six men. Tyack cross-examined Litzinger, and once again zeroed in on whether police had shown Carmen to the Newells at Graceland.

During the cross-examination, attorney Richard Addison slipped into the courtroom and sat down a few rows behind the defense table. Addison had been Carmen's second attorney, the one who had requested that Carmen's guilty plea be overturned. "There's a real hero right there," Riebel said to newsmen, motioning toward Addison while handing out two or three pieces of candy.

The afternoon was taken up with testimony by Detective Price, who had conducted the taped confession. O'Grady questioned Price about his role in the case, and then asked him to play the tape for the jury.

For 90 minutes, with pauses only to turn the tape over, the audience and jury sat, straining to hear Price's agonizingly difficult interrogation of Carmen. There were long silences while Price waited for Carmen to answer, and Price cajoled Carmen by talking to him: "You don't mind talking to me, do you Jack?" or "You're not embarrassed telling me this, are you Jack? 'Cause I'm not embarrassed if you're not."

But it finally came out, not in a spontaneous flow, but word by word, piece by piece, spread over more than an hour and a half, running on to well past midnight, according to Price's recorded voice on the tape.

Price would ask Carmen to talk to him . . . to tell him what happened. Finally Carmen would respond: "I grabbed her by the wrist."

Then what? "I hit her."

With what? "With my fist."

Then what? "I took her Levis off."

Then what? "I fucked her."

Almost to a person the jury sat with their heads in their hands, looking down, listening to the tape. In the front row of the spectator section, Christie's mother and grandmother sat looking down, occasionally shaking their heads.

Price continued on the tape. Then what? "She said she was gonna run . . . said she was gonna tell her momma."

Carmen was slowing down now, waiting for several seconds before answering, sometimes not answering at all. He eventually said he chased the girl, hit her with his fist, then picked up a board and hit her across the face. But Price was clearly struggling, having to drag every answer out of him. "I don't want to put words in your mouth," Price told him at one time. The

crowd stirred when Price said that, and across the courtroom Christie Mullins's sister laughed, showing apparent disbelief in what she was hearing.

Price was being gentle with Carmen, trying to keep him talking. "Would you mind looking at this clothing, Jack?" he asked softly. "No, I wouldn't mind," Jack answered, obligingly. Near the end, Price asked Carmen: "Are you sure everything you've said is true?" "Yeah," Carmen finally answered.

"Do you believe in God?" Price asked. "What's God do to someone who kills someone?"

"He puts you in the electric chair," Carmen finally answered.

It was one of the most incredible confessions anyone could imagine. "It's like leading the blind," muttered Channel 10 reporter Paul White. "It'll never go in a courtroom."

It was an exhausting ordeal for everyone in the courtroom. And the cross-examination was still to come. Riebel questioned Price for about 90 minutes, attempting to establish that Price had intentionally led Carmen in everything he said. It was the most grueling cross-examination of the trial, but Price held up well, adamantly denying that he was improperly leading Carmen.

At the beginning of the cross-examination, Riebel went to the blackboard and wrote: "I don't want to put words in your mouth." Later he erased "don't" and substituted "only."

"Isn't that what you really meant?" he asked Price.

"No sir, it is not," Price answered.

[Continued from "The Trial — Part 1"]

The fourth day

Thursday, Dec. 15

"We're scared to death," Tyack said on the morning of the fourth day of the trial. "A confession is a confession. We believe he didn't do it . . . we believe he's innocent. But I'm always scared of what a jury might believe."

The prosecution rested early Thursday. Tyack moved for a direct acquittal, particularly emphasizing that the kidnap and rape charges should be dropped. Shoemaker denied the motion, but he informed the prosecution he had questions himself about the kidnap charge and therefore reserved the right to review that later.

Riebel and Tyack then began the defense of Carmen by calling a long string of witnesses who chipped away at certain portions of the prosecution's story. The defense called Graham LeSturgeon, director of the VOA; his wife, who works there; and Clarice Morgan, who manages the VOA store (she was weak from cancer treatments and had laryngitis; Shoemaker had to stand next to her and repeat all her answers so the jury could hear). They established each other's presence at the VOA on the day of the murder. Then Carmella Boilon, a former caseworker, testified she saw Carmen at the VOA between 2 and

2:10 pm. In the cross-examination, O'Grady tried to plant the idea in the jury's mind that all of the VOA people were trying to protect Carmen; it didn't seem to work.

Tyack then called Harold Lust, supervisor of scheduling for COTA, who ran through bus schedules, stops along the High Street route, times, etc.

The alibi. Riebel and Tyack were beginning their "three-I defense" by trying to show the jury that Carmen could not have been at Graceland at the time police said.

Then the defense switched its attention to Henry Newell. Janice Dundon, a personnel supervisor at Woolco, told the jury how Newell had come into the store on the day of the killing and said there was "a body on the patio." She said that after some confusion it was determined that the body was in the woods northwest of the store. She testified that Newell was wearing cutoffs, with no shirt and no shoes, and that he had "a big red mark under his eye."

Riebel sat listening as Tyack conducted the questioning; then he scribbled something on a piece of paper and leaned back toward the press section to show it to newsmen. On the paper was the word "SODDI."

"What's that mean?" Singleton demanded sotto voce. Riebel responded by handing out more candy.

The defense then called Chris Lohrman and Miles Gibson, both of whom worked at the Mellet Group Home for the mentally retarded when Carmen lived there. Both testified that Carmen was an extremely passive individual, easy led and not aggressive. Lohrman said Carmen would never wear shorts—even when he played basketball. He also testified that Carmen once had confessed to damaging a broiler when in fact another resident at the home had done it. Lohrman said he knew that Carmen had had at least three sexual relationships with other males, but that he was "very shy and hesitant to approach females."

O'Grady cross-examined Lohrman, and the witness confirmed that Carmen frequented bars, and was once even hospitalized after being beaten up in a bar. But O'Grady seemed unable to undermine seriously the testimony of the two men.

Both O'Grady and O'Brien were growing more and more angry at Riebel and Tyack—openly showing irritation in the courtroom.

"They have all our files on this case," O'Brien complained again during a morning break, "and now they're calling surprise witnesses. That's why they never filed for discovery [a legal procedure which defense attorneys usually request to enable them to see what evidence the prosecution has]. That means we don't know who they're going to call as witnesses, except the ones subpoenaed."

Janice Dundon had been a voluntary witness, not on the defense attorneys' subpoenaed list. "We didn't know about her until yesterday," Riebel explained. It was an explanation that Riebel and Tyack would make several

times more during the trial, as several more "surprise" witnesses would surface.

"The crazies—we call 'em the crazies—are coming out now," Riebel explained further. "It takes me an hour each evening to return the calls from people who think they have something to add to the case. People are even handing us sealed envelopes on the street."

The defense lawyers were beginning to feel better by noon on Thursday. "We believe if we had quit this morning after the prosecution rested that we would have had a hung jury at worst," Riebel said. "Now we're going for the whole thing."

"No, I don't feel bad about O'Grady and O'Brien's complaints," Riebel continued. "They've got the full power and majesty of the State of Ohio behind them."

The defense witnesses continued to chip away at the case against Carmen. Kim Mullins, the now-15-year-old sister of Christie, testified that Carol Reeves had picked Christie up at the pool on Broadmeadows, not along the street during a chance meeting as the Reeves girl had testified earlier.

Phyllis Mullins, the mother, testified that on the day after the murder she saw Carol Reeves on the street in front of the Mullins home. "She told me she was sorry about what happened and that she thought they had meant to get her," Mrs. Mullins said.

Jim Foster, who lives on Kanawha Street and was a neighbor of both the Newells and the Mullins family, testified that he saw Newell on the evening of the murder and that Newell had scratches on his hands. Foster, who works for the Law Enforcement Assistance Administration and is a former auxiliary policeman, was one of the most outspoken critics of the police investigation for more than two years. His wife Shirley had been one of the initiators of the petition that circulated through the Graceland-area neighborhood.

Foster's booming voice rang through the courtroom as he told of Newell telling him that he had seen Carmen with police at Graceland before the lineup. Foster also said he saw wire similar to that found wrapped around Christie Mullins' hands hanging in Newell's garage, and the Newell had told him that he [Newell] had been swimming in the nude with Carol Reeves at midnight at the Broadmeadows pool.

"If I had a voice like that I'd be Clarence Darrow," Riebel whispered to newsmen as Foster talked.

O'Grady cross-examined Foster, and he established that Foster and Norman Mullins had traveled to Delaware to try to determine if Newell had been involved in a homicide in that county.

"Do you like Henry Newell?" O'Grady demanded. "I respect Henry Newell," Foster replied.

It had been a good day for the defense, but the Mullins family was unhappy.

"I didn't get to say what I intended to say," Phyllis Mullins said as she was leaving the Hall of Justice, encircled by relatives and friends. "They didn't

give her a chance," her husband chimed in. Why hadn't she told the court all she knew? "I'm just confused," Mrs. Mullins said. "They won't put me on the stand," Norman Mullins complained.

The Mullins family—especially the father—had complained to the press and to police for two and a half years that they had lots of unpublished facts about the killing, and that they were being deprived of their rights to have a trial on the murder of their daughter. And now they were admitting that they had not told all they knew.

"If I don't get satisfaction from this trial, do you think I can get the U.S. government involved?" Norman Mullins asked a newsman.

The fifth day

Friday, Dec. 16

The fifth day of the trial started quietly. Both the prosecuting attorneys and the defense lawyers seemed tired. "The case is too old . . . it's tough to prosecute," O'Grady said, relaxing during a break. Riebel and Tyack seemed weary, without spark, as they questioned two psychiatrists, Dr. Henry Leland and Dr. Charles Harding, about Carmen's mental capacity.

Tyack had angrily defended his questioning of Phyllis Mullins the day before. "Bullshit," he said when told that Mrs. Mullins had complained that she had not gotten to tell everything. "We got out of her what we wanted. I don't trust that family. They've been through so much and they're so obsessed that you just can't be sure what they might say."

Jim Foster, also, was growing unhappy with the defense attorneys. "I realized as I was driving home last night that I didn't get to say what I wanted to say," Foster remarked as he sat outside the courtroom. Foster said he didn't think Riebel and Tyack had done a good job in cross-examining Carol Reeves and Pam Newell. "It's not good enough to just get an acquittal for Carmen," Foster said. "I was to see the guilty individual behind bars."

Norman Mullins had remained upset from the night before, still prowling the lobby and talking to everyone. "You don't think I'm doing enough in the trial, do you?" he said to a newsman. "Well, you just watch this afternoon. There's gonna be two surprise witnesses who will blow this case apart."

"Who?" the newsman inquired.

"I can't tell you now," Norman replied, but then he continued. "I'll just give you two names—Saultz and Shaffer."

In the lobby at lunchtime, Riebel confirmed that the defense lawyers had two big witnesses scheduled to appear that afternoon. Tyack, in fact, was running all over the building in a panic looking for them. He finally located them in the basement cafeteria, and came back to Riebel showing thumbs up. "We found our witnesses," Riebel said.

"Saultz" turned out to be 12-year-old Bobby Saultz, son of Pam Newell by a previous marriage and the stepson of Henry Newell. His testimony, which

came at the start of the afternoon session, was perhaps the most dramatic development of the entire trial.

Directly contradicting the earlier testimony of his mother and Henry Newell, Bobby told his story in a soft but steady voice. He knew Christie Mullins, he said, and had seen her at the Newell home. He also had seen her in the car with his mother.

On the day of the murder, Bobby said, Henry Newell went outside the house around noon to chase some boys who were throwing firecrackers, just as Newell had told the jury. But according to Bobby, his stepfather did not return "for 30 or 45 minutes."

When Newell left the house, Bobby said he had on cutoff jeans, a shirt and sandals. When he returned, the boy testified, Newell had no shirt and no sandals. And he had scratches on his face and body.

The audience sat stunned as the boy continued talking and responding to Tyack's questions.

He said his mother and stepfather then went into a room and talked for a while, and when they came out they said they were going to the shopping center. Bobby said they stopped the car near the railing by Woolco and went down the path into the woods. He told the jury that they stopped part way back the path and "We found Junior's [Henry Newell's] shoes."

"Was there anything unusual about the sandals?" Tyack asked. "Yeah, a strap was broken," Bobby responded.

The boy said he and his family walked on farther and then Henry Newell told them to stop by a tree. "But then Junior said 'It isn't here,' " Bobby said.

They walked on, Bobby said, and "then they told us to stop again. They went behind a tree and found the body." He said the Newells were behind the tree for about five minutes, and when his mother came out she was crying. They then went to Woolco to call police, Bobby testified. He said that Henry found a comb near the body on the way, and that he picked it up and threw it into the weeds, saying it wouldn't be found there.

Bobby told the jury his mother told him not to talk to anybody about what had happened. He said he told his real father and stepmother when he returned home [Bobby lives with his natural father, Robert Saultz]. He also said he had told the story to Tyack and to the prosecutors.

O'Brien conducted the cross-examination for the prosecution, and he was extremely gentle in his questions. He struggled to show that it was strange that Bobby had not told others about his story for more than two years. "I told Mr. Mullins," the boy said at one point.

O'Brien asked why he hadn't told police. "They only asked me two or three questions," Bobby replied.

O'Brien asked him if his mother [Pam Newell] had called him on the phone the night before to inquire whether he had talked to Mullins or to defense

attorneys about the case. "Yes," Bobby said. O'Brien asked him why he told her he hadn't talked to anyone. "Why did you lie?"

"Because my father told me not to talk to anyone about this unless he told me to," Bobby answered.

In the lobby outside the courtroom following the testimony, Bobby's father said he had been afraid for his son's life for the past two and a half years. "It's been a tragedy for the Mullins family, and it's been a burden for us," he said. "I've been afraid for Bobby ever since the murder."

Inside, Switzer of the *Dispatch* was sinking into a deep depression. The biggest break in the whole trial had occurred too late in the day for the afternoon paper to do anything with it, leaving Harry Franken and the morning *Citizen-Journal* alone with the story. "A witness puts Newell in the woods without the kids, and we're dead," Switzer moaned. "We got no place to go . . . might as well sit here and relax."

Riebel and Tyack were not finished with their surprises, though. The next witness was Marion Shaffer, the 61-year-old mother of Pam Newell. She had just taken the stand when O'Grady jumped up to object—one of the few objections made during the entire trial.

Shoemaker listened for a few seconds, and then sent the jury out of the room. "Is this testimony relevant?" he asked the defense lawyers. "I certainly hope so," Riebel replied.

Then Riebel asked to make a statement to the court. "I give my professional word . . . " he began. "I have never seen this woman before this morning when she came up to me outside the courtroom and said she had something to say—that she heard Henry Newell say after the murder of Christie Mullins that 'they would teach her a lesson.' "

O'Grady continued to argue, saying that Shaffer's testimony should not be allowed before Newell had a chance to comment on the allegation. Shoemaker finally made his ruling: "I don't want to put myself in the position of preventing her from saying that in court. Objection overruled."

The jury came back in while O'Grady sat glowering at Riebel. Riebel then asked Mrs. Shaffer to tell her story.

Shaffer said that she had gone to the funeral home with her daughter and son-in-law the night before Christie Mullins was buried. "On the way home I remarked to them [Henry and Pam] that it was such a tragedy for the Mullins family," Shaffer told the jury. "He [Newell] said that 'That would teach her to keep her damn mouth shut.' "

Under cross-examination, Shaffer said she was "stunned" when her son-in-law made the remark. Asked why she did not tell police or anyone else, she replied: "I'm afraid of the Newells—Junior and his brother Tommy." She also said she had "told Mr. Mullins about this several months ago."

The prosecutors appeared to be shattered by the testimony of the two witnesses. An angry O'Grady demanded time to review the testimony, "because once again we did not know that this witness would be called."

He then stormed out of the courtroom and into the rest room. Singleton of WCOL chased him into the men's room, where O'Grady said, according to Singleton, "I would be concerned if I believed any of it." O'Brien flopped down on a bench in the lobby during the break. He admitted the afternoon's two witnesses "may have been a turning point. It certainly doesn't help."

Meanwhile, people were crowding around Norman Mullins, shaking his hand and congratulating him. "You done good," one person yelled to Mullins.

After that the defense rested its case. The prosecution began calling rebuttal witnesses—police officers again—but after the drama of the early afternoon it was anti-climactic.

Judge Shoemaker dismissed the jury for the weekend—cautioning them not to talk to anyone or listen to any news accounts about the trial—and an emotionally-exhausted group of spectators filed out of the courtroom.

The sixth day

Monday, Dec. 19

Friday's fireworks had generated the biggest media coverage of the trial. "Attention shifts to Newell after surprise testimony," screamed a front page headline in the Saturday morning *Citizen-Journal*. "Surprise witnesses cast doubts on Newell," the front page story in that afternoon's *Dispatch* was headlined.

The result was that on Monday morning, the sixth and—as it would turn out—final day of the trial, there was no room in the court. None. Spectators filled the aisles, sitting and standing in every nook and corner. They spilled out into the vestibule and on out into the lobby beyond. People pushed and shoved to get close enough to hear what was going on inside, but it was impossible to get inside the room—or to get out.

At one point, O'Grady tried to fight his way down a crowded aisle, stumbled and nearly fell over feet and bodies. "I hope the fire marshal doesn't come in here," he muttered angrily, as he worked his way back to the prosecution table.

Shoemaker had obviously decided to leave the courtroom wide open. At one point he announced that "People on the aisle will have to sit down on the floor, but people standing along the walls are okay."

The room had the feeling of pandemonium, although the audience remained well behaved as it had throughout the trial. "I've never seen anything like this in court," remarked deputy sheriff Jack Reiser, clearly irritated at the situation. "It's up to the judge, though."

During the morning break, Channel 6 anchorwoman Jan Ryan fought her way through the crowd, walked down front and across to the press section. But

there were no seats. Finally a spectator got up and Ryan sat down. It was the first time a Channel 6 reporter had attended any of the trial.

WCOL's Singleton came back after the break and found a woman in the press section seat he had occupied throughout the trial. She finally gave up the choice spot, but not without an argument. "I'll be goddamned if I'm gonna sit through this entire thing and then miss out on the finale," Singleton muttered, more than a little hot under the collar.

More newsmen were there, too, crowding for seats. The Akron Beacon Journal's Mike Cull showed up, and had grabbed a front-row seat right by Channel 4's artist. When Channel 4 reporter Terry Jessup came back from a break, he had no seat. Finally Shoemaker's bailiff, Steve Cahill, brought out additional chairs and placed Jessup near the deputies on the wall. The C-J's Harry Franken could be seen trapped in the back of the room, peering over the heads of spectators.

The Mullins family, which had managed to hang on to front-row-center seats all week, was now scattered—Mrs. Mullins seated on the side in the back and the father and grandfather standing.

Over the weekend, the defense lawyers had come up with one more surprise witness. They were unsure, though, that they wanted to put this one—Alvin Caudill—on the stand.

"We spent a lot of time talking about Caudill during the weekend," Tyack would say later, after the trial was over. "We knew that Caudill was vulnerable to cross-examination. We thought we had the case won already, and we didn't want to blow it by making it look like we were just out to get him [Newell]."

But they finally decided to call Caudill. He told the jury that he had been with Newell in a bar in August, 1976, a full year after the murder, when Newell had told him about the Mullins murder. "He said he killed her, but he didn't mean it," Caudill said. "He said he only meant to knock her out."

O'Brien cross-examined Caudill, and he lit into him with a fury. Caudill had a conviction record himself, and had "snitched" to the police before, O'Brien said. "Didn't you even snitch on your own brother?" O'Brien yelled at the witness. O'Brien established, too, that Newell had once "snitched" to the police on Caudill, but Caudill said he had never known that.

Although O'Brien's cross-examination went a long way towards discrediting Caudill, it remained a fact that one more person had pointed the finger squarely at Newell.

The prosecution moved on, calling rebuttal witnesses, but it seemed like a lost cause by then. A parade of police officers were called back to the stand for three-minute testimonies—all aimed at rebutting earlier defense testimony. The jury sat, listening, impassive. The audience sensed it was about over. There was nothing left but the closing arguments by both the defense and the prosecution.

In the lobby at lunch break, newsmen were talking to Riebel and Tyack about the upcoming closing summations. "Have you noticed," Tyack asked, "that the prosecution has been acting more and more like defense attorneys? There's been no mention of Jack Carmen for the last day and a half. That's what we wanted."

It was true. Carmen had sat almost unnoticed during the last days of the trial, while Henry Newell had become the central figure. O'Grady and O'Brien had spent all their time defending Newell instead of trying to get a conviction of Carmen.

"That's not unusual," O'Brien said, when asked about why the trial had turned in that direction. "They're [defense attorneys] always trying someone other than the defendant. Usually it's the police or the prosecutors. This time it happens to be Henry Newell."

People poured back into the courtroom after lunch, filling it up once again. Ned Stout of the *Dispatch* lost his seat, and since only the closing summations were left, he joked to Cahill that he would sit at the now-empty witness chair. Cahill went into a back room and brought out "the last chair left," and placed it in front of the railing beside the defense table for Stout.

After the tension of the trial itself, the closing arguments proved to be a letdown. Riebel and Tyack seemed disorganized, unable to summarize all that had happened before. O'Grady, although with a weaker case, delivered the stronger closing.

"Mr. Tyack and Mr. Riebel have put the question to you that was put in Columbus Monthly magazine," O'Grady began his talk to the jury. "Who did kill Christie Mullins? Did that man do it," he said, pointing to Carmen, "or did Henry Newell do it?"

O'Grady talked for more than 25 minutes, going over the testimony. "Are we going to convict Henry Newell?" he finally asked the jury. "Is that what we're here for? Well, we don't have a case on him, because he didn't do it."

"We do have a case on Jack Carmen," O'Grady continued, "because he did do it. And he'll tell you he did it . . . he'll tell you he did it as often as you want to ask him."

"If you believe what the defense has said, then you must believe in a huge police frameup," O'Grady said.

Tyack and Riebel split up the defense's summation. Tyack attacked the state's case, presenting again the alibi and trying to show again why Carmen could not have committed the crime.

Riebel followed, and he told the jury: "We are not saying that police were involved in a frameup . . . if we gave that impression I apologize. If there were errors in execution, it's because they [the police] are people, as you and I are."

"Just so we get this straight," Riebel then told the jury, "I think it's Henry Hester Newell. Henry Newell is the murderer."

He continued: "The defense could have quit after the alibi testimony showed Carmen could not have been there. But we wanted to go ahead and show the lengths the state would go to convict an innocent man," he added, as O'Grady bristled. "They didn't mean to do it," Riebel quickly added. "I hope and pray they didn't."

Riebel's comments were enough to fire O'Grady up, and he returned to the lectern angry.

"How far will the state go to convict an innocent man?" O'Grady repeated, almost yelling. "I wouldn't walk into a courtroom. But how far would I go to convict a guilty man? As far as I can."

Actually O'Grady put on a strong closing show, even though he too knew it was a losing effort. He threw the board used to murder Christie on the floor for emphasis, and the crash echoed in the courtroom. His style was forceful, commanding . . . he simply did not have enough evidence—not nearly enough.

"Henry Newell has been accused of two murders in this trial," O'Grady finally concluded. "One was in Delaware, but we know Newell didn't do it. That's one wrapped up. Well, this one's wrapped up, too," he said, building in intensity.

"This case is closed, and it's up to you to put on the final chapter," O'Grady told the jury. "And you can do that with one word: 'Guilty!' "

The defense lawyers were subdued following the arguments. They knew O'Grady had closed stronger. "O'Grady did a hell of a job," Riebel remarked, and Tyack agreed it was one of the best closing arguments he had ever heard.

Outside the courtroom, an exhausted O'Grady said his strategy had been "to play to the older men on the jury."

"Sure, I was angry," he said. "When the defense counsel says something that makes me angry, it helps."

It was nearly 5 o'clock when Shoemaker finally took the jury members to dinner before they began their deliberations, and the courtroom emptied.

"It may take the jury a while," Harry Franken said, as he gathered up his notes and prepared to leave for a couple of hours. "It wouldn't take me long, but after O'Grady's closing argument they may be out for a while."

Four and a half hours later, the verdict came in.

Epilogue

In the weeks following the Carmen trial, there was little escape for the people who had played important roles.

The defense attorneys, Riebel and Tyack, went through a brief, heady period, taking congratulatory calls and receiving letters of praise. "On the day after the Carmen verdict, I had a domestic case in court at 9 am," Tyack recalls. "After the trial we had just been through, I thought: 'What am I doing here?' "

Tyack and Riebel said they would cooperate in any further investigation of the Mullins murder, "but we want to stay out of the case . . . our job is done."

Jim O'Grady's job on the Mullins case was done too, because Franklin County Prosecutor George Smith had assigned O'Grady's chief assistant, Dan Hunt, to handle it from now on. O'Grady wrote an angry letter to the *Dispatch* and appeared on radio talk shows following the trial, still insisting that Carmen was guilty.

The police investigators were also removed from the case. Sgt. John Tilley and Detectives Robert Litzinger and Ron Price were replaced by Detectives Gene Brush and Lt. Richard Hartman. "They took the loss pretty hard," O'Grady admitted.

Henry Newell was returned to Chillicothe Correctional Institute where he still has to serve a sentence on his arson conviction. Now, as the principal suspect, he is expecting more questions about the murder of Christie Mullins.

Sixteen-year-old Carol Reeves is back in school, but the Mullins case and the trial still haunt her. In late December, her mother called police after her daughter received threatening phone calls.

Norman Mullins and his wife, Phyllis, have not changed their views. Mullins still insists he will continue with his \$2 million civil suit, filed before the trial in an attempt to "get justice for my daughter." "I don't look forward to going through another trial, but I want to know for sure who did it," Mrs. Mullins said shortly after the Carmen trial concluded.

Myron Shwartz, Carmen's first attorney, who many say created the entire mess by bargaining with prosecutors to allow Carmen to plead guilty to first-degree murder in exchange for dropping the death penalty, remains convinced today that he did the right thing. "I never pleaded a man guilty who I didn't think was guilty," he says, adding that "Carmen made the final decision on everything I did."

Only Jack Carmen himself seems unaffected by it all. "I don't know if he fully appreciates what all has happened to him," says Graham LeStourgeon, head of the VOA, where Carmen is living. "He knows he's free now. We've got him working, making beds in the dormitory. He's gone shopping, and a dentist has offered to fix his teeth. After that, I don't know what he'll do."

Max S. Brown is editor and publisher of Columbus Monthly.

<http://www.columbusmonthly.com/June-2009/The-Trial-Jack-Carmenas-day-in-court-a-Part-1/>