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1954 Trial

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Volume 03, 1954 Trial Transcript: Defendant's Bill of Exceptions and Voir Dire (Part 3)

Cuyahoga County Court of Common Pleas

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MSL

ACADEMIC ENDEAVORS

THE STATE OF OHIO,

COUNTY OF CUYAHOGA.

SS:

Blythin, J.

IN THE COURT OF COMMON PLEAS

CRIMINAL BRANCH

THE STATE OF OHIO,

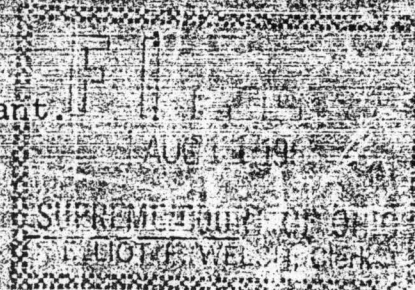
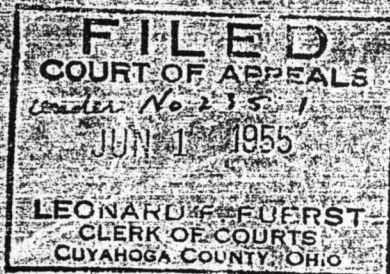
Plaintiff,

VS.

No. 64,571.

SAMUEL SHARPARD,

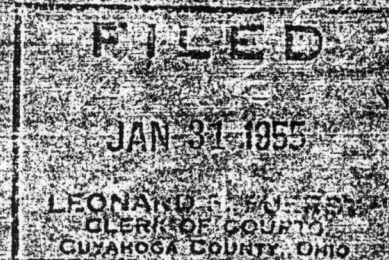
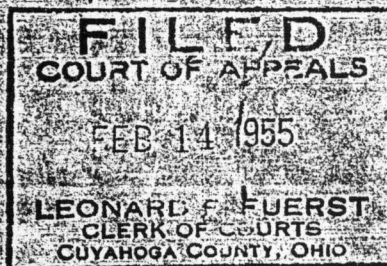
Defendant.



DEPENDANT'S BILL OF EXCEPTIONS

VOLUME III

Pages 1099 to 11640



(9)

Thereupon IRENE J. KIRALY, being first duly sworn, was examined and testified as follows:

EXAMINATION OF PROSPECTIVE JUROR IRENE J. KIRALY:

BY THE COURT:

Q Is your name Irene J. Kiraly?

A Yes, it is.

Q Is that how you pronounce it?

A Kiraly.

Q And you live at 3112 West 142nd Street?

A Yes, your Honor.

Q That is near Lorain?

A Yes.

Q You are a married lady, Mrs. Kiraly?

A Divorced.

Q You are divorced?

A Yes, sir.

Q How long have you been divorced?

A Three years.

Q Two years?

A Three years.

Q Will you give us your former husband's name, please?

Give us his first name?

A Joseph Kiraly.

Q Joseph?

A Yes.

Q And what was his occupation? Generally?

A He was a driver for the Tastee Catering.

Q Driver for whom?

A Tastee Catering.

MR. GARMONE: Tastee Catering?

PROSP. JUROR KIRALY: Tastee Catering. That
was my second husband.

Q No. The one from whom you are divorced?

A I am divorced twice, your Honor.

Q We are interested in the second one.

A That's the one.

Q Will you give them the name of that company again?

A Tastee Catering.

Q T-a-s-t-y?

A T-a-s-t-e-e C-a-t-e-r-i-n-g, Catering Co.

Q What do they do?

A They are sales drivers.

Q And do you have a family?

A Yes, I have.

Q And will you tell us how old they are and how many?

A I have three children by a first marriage, a son 22, a
daughter 18, a daughter 11.

Q And no children from the second marriage?

A No, your Honor.

Q Are you employed or gainfully employed now?

A Yes.

Q And what is the nature of that employment?

A I am an inspector in a cutting tool factory.

Q And who is your employer?

A The National Tool Co.

Q And how long have you been so occupied?

A Seven years.

Q How long have you lived on 142nd Street?

A Nine years.

Q Have you ever served as a juror before?

A No, I have not.

Q Have you ever been a witness, other than in your divorce case or cases, before?

A No, I have not.

Q You were here, I take it, a week ago last Monday morning and heard who all these good people were around this trial table. Do you know any of them?

A Just as you pointed them out to me that day, your Honor, some of them.

Q You didn't know them before?

A No.

Q And you don't know any of them personally?

A No.

Q Do you know the County Prosecuting Attorney, Mr. Frank T.

Cullitan? He is not here.

A No.

Q Or any member of his staff?

A No.

Q Or the sheriff, Mr. Sweeney, or any member of his staff?

A No.

Q Or Dr. Gerber, the coroner, or any member of his staff?

A No.

Q Are there any members of your family or, if you know, of either one of your two former husbands', who is a member of a Police Department or any law-enforcing agency, as far as you know?

A No.

Q You understand, Mrs. Kiraly, that it is the function of a jury to decide the facts, to decide the guilt or innocence of a person charged with crime, and they are the only ones who decide it. The Judge and the Prosecutors and counsel for the defense have nothing to do with deciding whether a man is guilty or innocent. That is entirely the function of the jury.

And in arriving at that decision, it is the duty of the jury to listen to the evidence that will be produced from that witness stand where you now sit and to weigh it, and to weigh it on the same basis exactly, without regard to who produces the evidence.

If a doctor is here, his evidence is to be weighed; if a common laborer is here, his evidence is to be weighed; a police officer, his evidence is to be weighed, and weighed on the same scale exactly, with one thing in mind, and that is to determine what the truth is without regard to where it comes from. Do you understand that to be the rule?

A Yes, sir.

Q And the jury arrive at their decision from weighing all of the evidence and doing so in accordance with the rules of law that the Court will give to the jury.

Do you believe now that you could sit here and listen to the evidence and the instructions of the Court as to the law and be guided entirely by those in any decision that you arrive at?

A Yes, sir.

Your Honor, I have formed a definite opinion. ✓

Q Well, I was going to ask you that question next. You jumped the gun on me.

You say you have formed an opinion as to the guilt or innocence of Dr. Sheppard, is that right?

A Yes, your Honor.

Q Pardon?

A Yes, your Honor.

Q All right. And is that opinion such that you could not now completely forget it and disregard it, at least disregard it

entirely?

A No, I could not disregard it. My opinion is firmly made.

Q Very much fixed?

A Yes.

MR. MAHON: Challenge for cause,
your Honor.

THE COURT: You may be excused.
Thank you.

- - -

Thereupon JAMES C. BIRD, being first duly sworn, was examined and testified as follows:

EXAMINATION OF PROSPECTIVE JUROR JAMES C. BIRD:

BY THE COURT:

Q Your name is James C. Bird? ✓

A Yes.

Q And you live at 1956 Green Road?

A Yes, sir.

Q That would be in the City of Cleveland?

A The City of Cleveland, yes, sir.

Q And are you a married man?

A I am, sir.

Q And do you have a family?

A I have one child, sir.

Q How old is that child, and man or woman?

A It is a son and he is six years old.

Q Six?

A Yes, sir.

Q One son six years old. How long have you lived on Green Road where you now live?

A Since February of 1950.

Q Just generally where did you live before that?

A I lived over off Shaker Square on Milverton Road.

Q And what is your occupation or profession, Mr. Bird?

A I am now cashier at the ticket office for Cleveland Terminal Company.

MR. CORRIGAN: Cleveland what?

PROSP. JUROR BIRD: Cleveland Union
Terminal Company.

Q You say you are in charge of the ticket office?

A I am cashier, sir.

Q Cashier at the ticket office of the Cleveland Union Terminal Company?

A Yes.

Q How long have you been so employed?

A I have been there since April of 1945.

Q Have you ever been a juror before?

A No, sir.

Q Ever been a witness in a case of any kind?

A No, sir.

Q You heard who these gentlemen around this trial table were when you were here a week ago last Monday morning. Do you know any of them?

A I have sold Mr. Parrino tickets at the ticket office.

Q You have what?

A I have sold Mr. Parrino transportation at the ticket office in performing my duty. I have met him there.

Q Is your connection or association with Mr. Parrino confined to just your business over the ticket window?

A That is all I have ever known him, sir, personally.

Q You have never known him otherwise?

A No, sir. If I might state --

Q I take it that the fact that he is your customer -- you must have a lot of them -- and that wouldn't particularly affect your judgment in the case?

A It would not, no, sir.

MR. CORRIGAN: He wanted to say something else.

A As I was just going to say, that I have sold Mr. Parrino tickets, several times, I believe. Probably the last time was two years ago. I think it was on a trip to New York, if I am right.

Q You have not had any business transactions with him recently?

A Not recently, no, sir.

Q Do you know the County Prosecuting Attorney, Mr. Cullitan, or any member of his staff?

A I do not.

Q The sheriff or any member of his staff?

A No, sir.

Q Dr. Gerber, the coroner, or any member of his staff?

A No, sir.

Q Are there any members of your family -- and by your family I would like to include your wife's as well -- who are

members of any Police Department or law-enforcing agency anywhere, as far as you know?

31 A No.

Q Have you or any members of your family been visited at any time by violence at the hands of another person?

A No, sir.

Q You understand, do you, Mr. Bird, that it is the function of a jury in a case of this kind to decide the entire issue of fact?

A Yes, sir.

Q The jury determines whether a person is guilty or not guilty, who is charged with crime, and that the Judge, Prosecutor and counsel for the defense have absolutely nothing to do with actually making that decision?

A I do, sir.

Q That it is for the jury exclusively?

A Yes, sir.

Q And that they do so after considering and weighing all of the evidence, no matter where it comes from, whether it is from a doctor or lawyer, police officer, professional man, public official or common laborer?

A Yes, sir.

Q And they are to weigh the evidence on the same basis precisely, without regard to its source, and the one test is what is true and what isn't true and no other test; you understand

that, do you?

A Yes, sir.

Q And it is to be weighed in accordance with the rules applicable as they will be stated to the jury by the Court.

Now, I have a general question based on that to put to you. Could you sit here and listen to the evidence and weigh it on that basis, fairly and impartially, and be guided by it and by the instructions of the Court as to the law in arriving at your conclusion?

A I could, sir.

Q Have you heard of this case before? ✓

A Yes, sir, I have, sir. ✓

Q By what means, generally? ✓

A The newspaper, sir. ✓

Q And have you heard radio comments? ✓

A I have heard very few, sir. I work from four to one o'clock in the morning and don't listen to the radio or television very often.

Q And have you discussed it with others or others discussed it with you? ✓

A Not recently, sir. ✓

Q Not what? ✓

A Not recently.

Q Well, let's take at any time. To what extent, if any, have you had discussions from time to time?

A I, myself, have not discussed it. I have heard the discussion in my place of employment.

Q Have you formed any opinion?

A I have not, sir.

Q As to Dr. Sheppard's guilt or innocence?

A No, sir.

Q Have you ever expressed any opinion to anybody?

A No, sir.

Q Have you any objection in a proper case, as the case will be defined to you by the Court, have you any objection in a proper case to capital punishment?

MR. CORRIGAN: Objection.

A I have none, sir.

THE COURT: Overruled and exception.

Q Have you, Mr. Bird, since the 4th day of July of this year, received any communication of any kind that could possibly have any relation to the matters here involved?

A I have, sir.

Q What did you receive?

A I received a letter in the mail probably a week ago last Thursday, I think was the date, sir.

Q Have you got it with you?

A I have, sir.

Q Could we see it, please?

((Prosp. Juror Bird hands document to the Court.))

THE COURT:

It is exactly the same.

Do you want this introduced?

MR. CORRIGAN:

marked.

Yes, I would like it

(Court's Exhibit A-19,
A-20 and A-21 were marked
for identification.)

Q Do you know, Mr. Bird, who sent you that communication?

A I do not, sir.

Q Have you entertained any idea at any time that the Sheppard family or any of their friends had anything to do with sending it to you?

A No, sir.

Q The Court will say to you that we know who sent it to you. The Sheppard family and their friends had absolutely nothing to do with it, it has no connection with them whatever.

Does the fact that you have received that communication affect you in any manner or would it affect your judgment in this case?

A It would not, sir. I didn't read or -- all I did was I saw a picture and closed it up.

Q Is that the only communication that you have received?

A Yes, sir.

Q And do you believe that on the basis of what little you have heard you could be a perfectly fair and impartial juror here?

A I do, sir.

MR. PARRINO: If the Court please, before Mr. Mahon gets to his questioning, I should like to direct another thought to the Court's attention. If I am not mistaken, I believe that Mr. Bird is acquainted with one of my brothers, if I am not mistaken. The Court might inquire into that.

THE COURT: All right. If he is, that would be serious and --

PROSP. JUROR BIRD: I'm sorry, I forgot that.

BY THE COURT:

Q All right. You know Mr. Parrino's brother?

A Mr. Nick Parrino, yes, sir.

Q You what?

A Mr. Nick Parrino.

Q I don't know him. What is his business, if you know?

A I think that he is a photographer with one of the oil companies in New York, sir. I don't know the company.

Q Just generally -- we are not seeking to pry into your private affairs, we just want to know generally -- what has been your acquaintance in connection with him?

A I knew Mr. Nick Parrino in Egypt in 1942 and 1943 while I was with the Air Force, and that time he was with the

Office of War Information as their chief photographer there. And I saw him probably four or five times in my tour of Service there in the Middle East in a year's time. Since returning from the Service I think I have seen him probably three times at the ticket office when he was buying transportation to and from New York City.

Q Just a business connection?

A Since that time, yes, sir.

Q You have had no social connection since you left the Army?

A I have not, sir.

Q And would the fact that you know Mr. Parrino's brother have any bearing at all upon your judgment in this case?

A It would not, sir.

Q And you won't hold it against the other Parrino that he is a brother of this man?

A I will not.

MR. PARRINO: Thank you, your Honor.

THE COURT: That is Mr. Mahon,

Assistant County Prosecuting Attorney. He would like to put a few questions to you.

EXAMINATION OF PROSPECTIVE JUROR JAMES C. BIRD:

BY MR. MAHON:

Q Mr. Bird, you understand from these questions, those that have been directed by the Judge and those that I will now ask

you and also that counsel for the defendant will ask you, they are not for the purpose of prying into your private affairs at all?

A I understand.

Q It is only an endeavor to obtain a jury here that can be fair and impartial.

A Yes, sir.

Q You have stated that you have read some accounts in the newspapers concerning this matter? ✓

A A few, yes, sir, I did.

Q And you heard some comments on the radio?

A Very few, sir.

Q And you have been present when there has been some discussion about this matter?

A Not recently, but --

Q Well, since July 4th you have been present when there has been some discussion? ✓

A Yes, sir.

Q Have you been present at any discussion since you have been summoned as a juror in this action?

A No, sir.

Q And where did those discussions take place that you were present at?

A As I stated, at my place of employment, at the ticket office at the Terminal.

Q And were there opinions expressed by various people regarding this matter?

A I know of no opinions expressed. I can't remember any.

Q Did you take part in the discussion?

A No, sir.

Q Or from what you have read and whatever comments you have heard on the radio and whatever comments were made in these discussions that you were present in, did you form any opinion --

A I did not.

Q -- as to the guilt or innocence of this defendant?

A No, sir.

Q Have you an opinion at the present time as to the guilt or innocence of Sam Sheppard?

A No, sir.

Q Is your mind in such shape that you could enter into the trial of this case with a free, open mind and obtain all of your information right here in this courtroom?

A It is, sir.

Q You would not be influenced in the slightest by anything that took place outside of this courtroom?

A No, sir.

Q You know, it is the function of the jury to determine the facts.

A Yes, sir.

Q And the jury should determine the facts from first-hand information. You understand that?

A Yes, sir.

Q And the facts in this case should be determined from the testimony of the witnesses who will testify from that witness stand that you are now seated in.

A Yes, sir.

Q Plus any physical exhibits that might be introduced or might be admitted into evidence in this case.

A Yes, sir.

Q And it is solely from that alone that the jury is to determine what the true facts are in this case.

A Yes, sir.

Q Do you feel that as a juror you could do that?

A Yes, sir.

Q Be guided entirely by that in determining the facts in this case?

A Yes, sir.

Q And as the various witnesses take the stand to testify, you will have witnesses from various walks of life who will testify. You will have doctors, technicians, you will have police officers and maybe other professions. Also you will have just the ordinary layman who has no profession or no title. There may be some public officials, also, that will testify in this case. And it will be the duty of the jury to

weigh the testimony of every witness who testifies.

A Yes, sir.

Q And to determine the weight and credibility that they will afford any witness who testifies, regardless of what their rank in life may be. The jury will have a right to believe or disbelieve all or any part of the testimony of any witness who testifies regardless of rank. You understand that?

A Yes, sir.

Q And in determining the weight and credibility that you will afford to any witness who testifies, you have the right to apply certain tests: Your experiences in life, and the Court will instruct you that you have a right to consider the frankness or lack of frankness of a witness who testifies; the probability or improbability of the story the witness tells on the witness stand; the interest that any witness might have in the outcome of this case; the reasonableness or the unreasonableness of the story of any witness and, in fact, you might apply any test that you ordinarily do in your private life in determining whether or not a person is telling you the truth.

Now, if the Court tells you that you have a right to do that, and that it is your duty to weigh the testimony and to give credit to those witnesses whose testimony is entitled to credit, will you follow that rule and apply those various

tests?

A I will, sir.

Q Now, his Honor, Judge Blythin, will instruct the Jury on the rules of law that are to apply in this case, and it is the duty of the jury to follow the Judge's instructions right to the letter, whether you agree with him or not. Do you feel that you can do that?

A Yes, sir.

Q You know, there are times when people have their own notions as to what the law is or what the law should be. Sometimes they are right about it and sometimes they are not right about it. But sitting as a jury, there is one person in the trial of this case who will state what the law is, and everyone is bound to follow that law that the Court tells them. Do you feel that you can do that?

A Yes, sir.

Q And you will do that?

A Yes, sir.

Q You have stated that you are not opposed to capital punishment?

A I have, sir.

Q And by that, you mean, or do you mean that in a proper case properly proven you could join in a verdict in which the penalty would be death?

A Yes, sir.

Q And I am sure that you realize the seriousness and importance of a case of this kind?

A Yes, sir.

Q And you realize that as a juror you might be called upon to render a verdict which will take a human life?

A I do, sir.

Q And as a juror, are you willing to assume that responsibility?

A Yes, sir.

Q We will have in this case what we call direct and circumstantial evidence. Generally you know what those terms mean, do you?

A Generally, yes, sir.

Q Direct evidence: When a witness testifies direct evidence, he testifies as to something that he might see or that he might hear. That is an example of what direct evidence is.

Circumstantial evidence is where you might draw reasonable inferences from proven facts. You understand that?

A Yes, sir.

Q And the Court will define to the jury what circumstantial evidence is and what direct evidence is. And will you follow the Judge's instructions in respect to that?

A Yes, sir.

Q You understand, or do you understand that under the laws of this state and this country, practically every state, that

one who is charged with the commission of a crime and enters a plea of not guilty to that charge is presumed to be innocent until proven guilty by evidence that convinces the jury of his guilt beyond a reasonable doubt?

A I understand that, yes, sir.

Q And so as this trial opens, right at this moment can you afford this defendant that presumption of innocence?

A I can, sir.

Q And you will require that the State of Ohio produce sufficient evidence to convince your mind of his guilt beyond a reasonable doubt before you will render a verdict of guilty in this case?

A I would, sir.

Q Well, now, searching your own mind, Mr. Bird, can you think of any reason at all why you could not be absolutely fair and just and impartial as a juror in this case?

A No, sir.

Q I am sure you would not be influenced by any bias or passion or prejudice or sympathy for anyone concerned here, would you?

A Not at all, sir.

Q You would decide this case on the facts as you get them from that witness stand and absolutely nothing else?

A That is correct, yes, sir.

MR. MAHON:

Thank you, sir. We

pass for cause.

EXAMINATION OF PROSPECTIVE JUROR JAMES C. BIRD:

BY MR. CORRIGAN:

Q Mr. Bird, where did you live before you went in the Army?

A My home is in Beckley, West Virginia.

Q Where?

A Beckley, West Virginia.

Q Beckley?

A Yes, sir.

Q Where is that?

A That is 75 miles south of Charleston on Route 21, near the Virginia border.

Q Charleston is the state capitol?

A State capitol, yes, sir.

Q And your home was 75 miles --

A South.

Q -- south of that?

A Yes, sir.

Q Toward the Blue Ridge Mountains?

A In the Alleghenies, yes, sir.

Q Where?

A In the Alleghenies.

Q And what did you do there, Mr. Bird?

A I was a school teacher, sir.

Q And how long were you a school teacher?

A Five years.

Q And what grades did you teach?

A I taught starting with the first year. I taught a one-room school, all eight grades. The second, third and fourth years I taught the fourth and fifth grade English and arithmetic, and the fifth year I taught high school English.

Q Was that in a rural district?

A The last year was a rural high school, yes, sir.

Q Now, did you go into the Army from that point?

A From West Virginia, yes, sir.

Q And after that you came here to Cleveland?

A I did, sir. I made Cleveland my home. I came and made my home here.

Q Was that your first occupation here, with the Cleveland Terminal?

A The first and only one, yes, sir.

Q Now, let me see, you say you are a cashier?

A Yes, sir.

Q Do you occupy a position in that sort of a rotunda there?

A In the back, sir. There is a separate office for --

Q You don't need to lean forward on that.

A There is a separate office for the cashier. It is in the back and away from the main ticket office.

Q Well, in the cashier's office, do you come in contact with the

general public?

A Not now, no, sir. I have only been the cashier there for approximately two years. Prior to that time I was a general ticket seller. I had my position at the window for about six years or so.

Q And the cashiers and the ticket sellers, do they work for all the railroads?

A We work for the four roads that use the Terminal facilities, yes, sir.

Q Now, I am just wondering how you got in touch with Mr. Parrino, being in the rear room.

A At that time, Mr. Corrigan, I think I was at the front window. I was not a cashier at that time. At that time, I was a ticket seller.

Q And your only contact with him was selling him tickets?

A That is correct, sir.

Q And did he introduce himself, or how did you get acquainted with him?

A His brother, Nick Parrino, introduced him to me.

Q And that is your only acquaintance with the Parrino family?

A It is, sir.

Q You might have sold tickets to me at times?

A I might have.

Q Or to anybody here in the room?

A That is correct.

Q But that stands out, the fact that you know Mr. Parrino as the only person in the room.

Did you go to college, Mr. Bird?

A I did, sir.

Q Where?

A I went to two schools. I went to West Virginia University.

Q Where?

A West Virginia University, and I graduated from a teachers' college in southeastern West Virginia in 1935.

Q Well, now, you are familiar with the Constitution of the United States, are you not?

A I am, sir.

Q Which provides that any person charged with a crime shall be indicted by the Grand Jury and shall be tried by a fair and impartial jury?

A Yes, sir.

Q You know that?

A Yes, sir.

Q So that we are putting into effect in this courtroom the Constitution of the United States; you understand that, don't you?

A I do, sir.

Q Now, I don't suppose that your acquaintance with Mr. Parrino or Mr. Parrino's brother would sway you one way or another in this matter?

A It would not, Mr. Corrigan.

Q Now, you know, Mr. Bird, that there has been a tremendous amount of publicity about this lawsuit, about this case of the State versus Dr. Sheppard? ✓

A There has, yes, sir. ✓

Q And you have been conscious of that since you have come here and waited to be called in to be examined? ✓

A I have, yes, sir. ✓

Q You have seen the photographers around? ✓

A Yes, sir.

Q Was your picture taken as you came in? ✓

35 A Not as I came in, no, sir. In the back room it was at one time, I think. ✓

Q And you have seen the pictures of the other jurors that have been called in, those that have been excused and those that sit in the box, you have seen those pictures in the paper, haven't you? ✓

A Some of them, yes, sir.

Q Did you see the interviews that were printed in the papers about people that had been excused from this jury box?

A No, sir, I did not.

Q You didn't read those?

A No, sir.

Q Have you read the papers in regard to this case since you have been called down here?

A I have scanned the headlines, Mr. Corrigan, but I have not read the body of the news stories. I haven't read those. I have scanned the headlines. ✓

Q But you haven't gone into the details of the newspapers that have been writing about this case?

A No, sir.

Q I assume that you read all the newspapers, don't you?

A I take the Plain Dealer at home and I read mostly the front page, as you might say, then to the comic section and then the sports, to see what the sports has. ✓

Q You go from the comic section to the sports?

A Yes, sir.

Q Well, the place where you work and with the fact that you know all this publicity -- and you couldn't escape it unless you were deaf, dumb and blind, could you? ✓

A That's right, I could not. ✓

Q There are how many people work with you? ✓

A I think at the moment, sir, there are 123 or 24, of which I come in contact with about 35 or 40. ✓

Q Your hours are what?

A My hours are from four in the afternoon until one in the morning.

Q Is that continuous, all the time?

A Continuous, five days a week, yes, sir.

Q You don't change onto the day shift?

A No, sir.

Q And you come in contact with 35 men and women?

A Roughly.

Q Are they mostly men or about equally divided?

A On the night shift, Mr. Corrigan, there are, I would say, 40 per cent men, 60 per cent women.

Q Well, now, going back to July, the beginning of July, July 4th, when this publicity started about Dr. Sheppard and kept up all through July and August and September, even down to the present day, did you run into anybody that knew anything factual about the case?

A Nobody, sir.

Q Nobody that would possibly be a witness in this case?

A No, sir.

Q Nobody that told you that they had some information about this case?

A Nobody, sir.

Q Are there any people from Bay Village working in there in your department, do you know?

A No, I am sure there are none.

Q Do you have any connection or association with Bay Village in any way?

A No, sir.

Q Any friends out there?

A No, sir.

Q Or did you visit out there?

A No, sir.

Q Do you know anything about Bay View Hospital?

A Nothing whatsoever, sir.

Q Or about the Sheppard family and the Doctors Sheppard?

There are four of them, three in addition to Sam.

A No, sir.

Q Now, of course, your mind isn't blank, any more than mine is, when you read something in the paper you get some impression, don't you? ✓

A Normally you do, yes, sir. ✓

Q And did you read the editorials in the Cleveland Press that were headed, "Bring him in, Quiz the Top Suspect, Somebody is Getting Away with Murder"? And did you see a cartoon in the Cleveland Press with lawyers and the family holding a shield up in front of Sam Sheppard?

A I did not, sir.

Q Did you read those editorials?

A No, sir.

Q You don't remember them?

A I don't read the Press, sir. ✓

Q You don't read the Press? ✓

A No, sir. If I read an evening newspaper, it's the News. ✓

Q What?

A If I read an evening newspaper, it's the Cleveland News.

Q Well, you saw a great many pictures in the paper?

A Yes, sir, I did.

Q Did you look at them?

A Yes, sir.

Q Did you ever see a picture -- was there a picture ever circulated down around the Terminal Tower or the Terminal Station of the murdered body of Marilyn Sheppard?

A No, sir.

Q Did you ever hear of that?

A No, I did not.

Q Now, in the discussions of this, was it quite a topic of conversation among the men and women that you were associated with?

A No, it hasn't been quite a topic of conversation, Mr. Corrigan. Probably in a slack moment in the office somebody might have mentioned it, somebody else might have remarked something. I can't remember the exact situation, but it's not a general topic of conversation there. Normally we are too busy to do much talking.

Q Sometimes we get impressions sort of subconsciously from what we hear around us and what people say, and so forth. You know that, don't you?

A That's a fact, yes, sir.

Q And you feel now that you have come into this courtroom, regardless of this great publicity and the fact that there are

a lot of reporters and photographers around here, without any impression at all as to the innocence or guilt of Dr. Sam Sheppard?

A Yes, sir.

Q What?

A I have no impressions one way or the other.

Q And you could sit on that jury and be the kind of a juror that you would want your brother to have or your sister to have or yourself to have?

A Yes, sir.

Q If you were on trial in a case like this, is that correct?

A I would, sir.

Q Now, let me put this to you: The Constitution provides that before a man can be put on trial, he must be indicted by the Grand Jury, and the purpose of the indictment by the Grand Jury is to tell him, to apprise him of what charge is being made against him, and that is all it means. Under the law, the indictment does not raise any presumption that he committed the crime, but under the law he is presumed to be guiltless of the crime until the State proves his guilt beyond a reasonable doubt. Now, do you subscribe to that?

A I do, sir.

Q And do you presume this man to be innocent at this time?

A I do, sir.

Q In reading the papers, did you notice that Marilyn Sheppard,

his wife, died in her bed in her home as a result of numerous blows that were rained upon her head?

A. Yes, sir. ✓

Q And that the murder of this young lady was a violent murder? ✓

A Yes, sir.

Q Now, Mr. Bird, there is Sam Sheppard. Do you see him back of me?

A Yes, sir, I do.

Q He is on trial, sitting in the prisoner's dock, charged with murder of the type that you know the charge is. Now, will you look at him and tell me whether the fact that this scene is presented and this idea is presented to your mind at this time raises any presumption in your mind?

A It does not, sir.

Q It does not?

A No, sir.

Q Now, I ask you these questions because we have to ask them to get the ideas of the person who comes in here because we don't know you.

A I understand.

Q We don't know what your thinking is, and people have different ideas. As you understand, Mr. Bird, that the control of the law and what the law is is deposited in the hands of the Judge that sits in this case, Judge Blythin?

A I understand that, yes, sir.

Q And that the control of the facts and the analysis of the facts resides in the jury?

A Yes, sir.

Q That is, if, for instance, a witness comes on the stand and says on a particular day the sun was shining, and another witness comes on the stand and contradicts him and says on that particular day it was raining and dark, those would be facts, and the analysis of those, the application of those, the determination of those facts is entirely in the hands of the jury. You understand that?

A I do, Mr. Corrigan.

Q And that no one can interfere in any way?

A I understand.

Q You understand that?

A Yes, sir.

Q And that the law, for instance, what murder in the first degree is, you can't apply your own idea of what murder in the first degree is, but you must take that instruction from Judge Blythin as to what murder in the first degree is.

A I understand that.

Q You understand that? That's the law.

A Yes, sir.

Q Now, in this particular case if you have been asked if you believe in the death penalty by both the Court and Mr. Mahon.

Do you get the idea from their questioning and the manner they questioned you that you have any obligation in this case to return a verdict of the death penalty?

A No, sir, I do not.

Q The law says that in first degree murder, if a man is found guilty of first degree, that the sentence shall be death in the electric chair unless the jury recommends mercy. That is the penalty for first degree murder. Do you understand that?

A Yes, sir.

Q And do you have any fixed ideas about the rendering of a verdict of mercy in a first degree murder case?

A Would you repeat that question, Mr. Corrigan?

Q It says that in a first degree murder case, if the verdict is guilty, it will carry with it the penalty of death unless the jury recommends mercy. Do you have any ideas that preclude you from rendering a verdict of mercy in a first degree murder case?

A No, sir, I haven't.

Q Now, this indictment says that Sam Sheppard, Sam H. Sheppard, on the 4th day of July of 1954 unlawfully, purposely and of deliberate and premeditated malice killed Marilyn Sheppard. That states a charge of first degree murder.

Now, do you understand what unlawfully, purposely, deliberation and premeditation mean?

A Yes, sir, I do.

Q If the Court charges you that the law is that it is necessary for the State of Ohio or the Prosecution to prove to you beyond a reasonable doubt each and every one of those things that are charged in this indictment, and that the proof of one or two or three is not sufficient, they must be all proven, do you subscribe to that charge?

A Yes, sir.

Q You will follow it?

A I will follow it, yes, sir.

Q Now, when an indictment like this -- this is the highest degree of crime in the state -- is returned it also includes other degrees of murder. It includes second degree murder, it includes manslaughter, it will include assault and assault and battery. Those are all included in here and all to be considered by a jury in a first degree murder case, and all have certain requirements to be fulfilled by proof.

Now, in each and every one of the included degrees of crime in this indictment, will you require the State to prove beyond a reasonable doubt all the elements set forth in the law before you return a verdict of any degree in this case?

A Yes, sir.

Q Now, we expect that the State will introduce to prove their claim in this matter circumstantial evidence. I assume, being a school teacher in the past, you have a very definite idea

about what is direct and circumstantial evidence. You understand those terms?

A I do, sir.

Q However, in applying the law that the Court will give you -- and he will give you some instructions upon that particular subject -- circumstantial evidence may be just as good as any other evidence, it may be better sometimes than direct evidence. But circumstantial evidence: If reliance for a conviction is placed on that, and the Court says to you that in that situation the facts and circumstances upon which the theory of guilt is placed must be proven beyond a reasonable doubt, and when all the facts and circumstances are taken together they must be irreconcilable with Dr. Sheppard's claim of innocence and must admit of no other hypotheses except his guilt -- do you understand?

A I do, sir.

Q And if that charge is given to you, will you tell me that you will abide and apply that charge as given to you?

A I will, sir.

Q Now, we will have police officers here. Do you come in contact with police officers in your work?

A We have the company police department there in the Terminal, Mr. Corrigan. Actually, it is the New York Central Police Department.

Q Have you ever done any police work?

A No, sir.

Q Well, there will be police officers testify here. Do you know any of these police officers over in the Central Police Station?

A I know none of them personally. I see the city officer on duty in the Terminal concourse.

Q Well, he is the uniform man, he wouldn't have anything to do with this case.

How about the sheriff's office; you don't know any of the sheriffs?

A No, sir, I don't.

Q There are a number of people out in Bay Village that probably will be witnesses here, and the Mayor of Bay Village and some of the police officers of Bay Village. You don't know them?

8 A No, I don't, sir.

Q We might have a conflict here on certain testimony on which it will be necessary for you to weigh one witness against the other. Do you understand?

A I understand, sir.

Q Now, police officers may testify. Will you give any greater weight to the testimony of a police officer than you would to an ordinary citizen just because he is a police officer?

A I don't think I would, Mr. Corrigan.

Q I want to know now.

A I think -- I would have to weigh -- I would have to hear the testimony. I wouldn't give any more credence to that testimony than to, say, the testimony --

Q You expressed a little hesitancy on it.

A No, I didn't mean to hesitate, Mr. Corrigan. I was forming my words.

Q I see. Because I have that -- I am sure that I will run into that problem in the trial of this case, that I will have police officers testify, and we know that they are the representatives of law and order and deserving of our respect.

A Yes, sir.

Q And you might have an ordinary Joe Smith come in and say something about the same situation that the police officer testified to which is in contradiction to what he said.

A Yes, sir.

Q And then it will be your obligation to weigh the two witnesses as to which one you will believe or which part you will believe. You understand that, don't you?

A I understand that, yes, sir.

Q The only thing I want to know is just the mere fact that this one witness is a policeman, you wouldn't give him greater weight than you would to the other fellow?

A I would not.

Q And we will have the same situation in regard to doctors. Certain doctors will be called here by the State, and we

probably will call some doctors in rebuttal, if it is necessary. And you would not give doctors called by the State any greater weight than you would to our doctors --

A No, sir.

Q -- just merely because they were State's witnesses or occupied an official position?

A No, sir.

Q I have this, Mr. Bird, in this case, and it will probably appear in the case, that Dr. Sheppard is what is known as a Doctor of Osteopathy, and we have medical doctors. He has a degree of D.O. or O.D. -- which is it, doctor?

DR. SAM SHEPPARD: D.O.

Q (Continuing) -- D.O., and other doctors from a different school have a degree of M.D. Are you familiar at all with the difference between an M.D. and an O.D.?

A No, sir, I am not.

Q You haven't any notions about that at all?

A No, sir.

Q If I tell you that both doctors take the same State Board and both are general practitioners admitted to general practice in the State of Ohio in all branches of medicine and surgery, that the law creates no distinction between them at all, would there be anything in your mind that would influence you towards accepting the opinion of an M.D. rather than the opinion of an O.D. merely because one has one title and the

other has the other title?

A No, sir.

Q It would not?

A It would not.

Q You would weigh that testimony on the intelligence they showed and the knowledge they showed?

A That's correct, sir.

Q Is that correct?

A That is correct.

Q Did you read a story about a girl named -- a young lady named Susan Hayes in the paper?

A Yes, sir.

Q Did you see her picture?

A I think I did, yes, sir.

Q You say you read the News?

A I do, and as I recall it, that is the paper that I saw it in, if I am not mistaken.

Q Do you remember a picture of this young lady, rather a large picture, on the front page of this young lady sitting on the lawn in summer attire, shorts, and so forth, and having a large picture taken and an interview with her by a young lady reporter on the Cleveland News named Doris O'Donnell?

A Mr. Corrigan, I did not see that particular picture.

Q You didn't see that?

A No, sir.

Q But you know of the situation there?

A Yes, sir.

Q Did you know that she had made some statements to reporters that she had some intimacies with Dr. Sam Sheppard? L

A I did, sir.

Q That she revealed that? L

A Yes, sir.

Q Does that prejudice you in any way against Dr. Sheppard?

A None whatsoever, sir.

Q Now, if you are accepted as a juror, Mr. Bird, will you be swayed in any way by what other people think about this case?

A No, sir.

Q Will you make up your mind entirely on what you hear in this courtroom?

A Yes, sir.

Q Will you refuse to talk to anybody about this case or have anybody talk to you about the case?

A Yes, sir.

Q During the time that you are on the jury?

A I will, sir.

Q So that substantially, you will not be impressed by what other people say, is that correct?

A That is correct, Mr. Corrigan.

Q We are all victims of what we hear and see. You know that,

Mr. Bird?

A Yes, sir.

Q And I have asked you and Mr. Mahon has asked you a great number of questions touching upon your qualifications as a juror. We do it because Mr. Mahon accepts the responsibility of this case, and I probably and my associates know that we have a young man on our hands whose life is in jeopardy by the very fact that he is indicted, and that is why I ask you all these questions.

A I understand.

Q So as to be careful and get that kind of a jury that the Constitution provides for.

A Yes, sir, I understand.

Q And has anything occurred in your mind now that I haven't inquired about, or do you think of anything? Because I am sure, Mr. Bird, that you want to be a fair juror, don't you?

A I would, sir.

Q Is there anything that occurs to your mind that I haven't asked you about that would interfere in any way with your judgment in this case, deciding it just the way you would want your case decided or your son's case decided if he grows up to be a man and gets into trouble?

A There is nothing that I can think of, Mr. Corrigan.

MR. CORRIGAN: I pass for cause.

THE COURT: Mr. Bird, after the

recess, will you be kind enough to take that chair No. 9?

Ladies and gentlemen, we will now have a few minutes' recess. And will you all be careful not to discuss this case or any matter connected with it, not even among yourselves?

(Recess taken.)

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THE COURT: The next peremptory is
with the State, gentlemen.

MR. MAHON: If your Honor please,
the State is satisfied with this jury as now
constituted.

THE COURT: The defense.

MR. CORRIGAN: Will you pardon us a
minute?

THE COURT: Certainly.

MR. CORRIGAN: Would you give us a
minute?

THE COURT: Oh, sure. Would you
like to go in the chambers?

MR. GARMONE: If the Court please, I
base this challenge on the statement I made --

MR. PARRINO: I object to any remarks
as to why a challenge is made, if the Court please.
If they have a challenge, let them exercise a
challenge without any comments.

THE COURT: All right.

MR. GARMONE: Well, we will excuse, then,
Dorothy Lee, No. 6 Juror. ✓

(Thereupon Prospective Juror Dorothy Lee
was excused.)

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Thereupon EDITH E. DAVID, being first duly sworn, was examined and testified as follows:

EXAMINATION OF PROS. JUROR EDITH E. DAVID

By the Court:

Q Is your name Edith E. David?

A Yes, sir.

Q I see another name, Muhlenberg, is that it?

A Muhlenberg is my maiden name.

Q That was your maiden name. I see. And have you been recently married?

A About three years ago.

Q Do you live at 3608 Handerberry?

A Canterbury Road in Westlake.

Q Canterbury Road in Westlake.

MR. MAHON: What is the number there?

THE COURT: 3608 Canterbury Road.

Q How long have you lived on Canterbury Road in Westlake?

A Just about three months.

Q Where did you live before that? 13514 Tyler?

A That's right.

Q Where is Tyler?

A Off of Lorain, on the West Side. Off of Lorain and 140th on the West Side.

Q How long did you live on Tyler?

A About eight years.

Q What is your husband's first name, please?

A George.

Q Have you a family?

A Yes. One daughter a year and a half old.

Q What is your husband's occupation or profession, please?

A He is a draftsman at Cadillac Tank Plant.

Q How long has he been so occupied?

A I think it is about two years.

Q Are there any persons who are members of your household other than your husband and that nice little daughter?

A No. Just the three of us.

Q Have you ever served as a juror before?

A No, your Honor, I haven't.

Q Have you ever been a witness in a case in court before?

A No, I haven't.

Q I take it that you were here a week ago last Monday morning and heard who all these good people were around this trial table?

A Yes, I was.

Q Now, I will ask you if you know any of them?

A No, I don't know any of them.

Q Do you know the County prosecuting attorney, or any member of his staff?

A No, I don't know any member of his staff.

Q And you don't know him?

A No, I don't.

Q Do you know the Sheriff or any member of his staff?

A No, I do not.

Q Do you know the Coroner, Dr. Gerber, or any member of his staff?

A No.

Q When I speak of family, now, I would like to include your husband's and your own.

A Yes, sir, I understand.

Q Are there any members of your family who are members of a police department or any law-enforcing agency anywhere, if you know?

A Not of my immediate family, no. .

Q All right. You qualify it somewhat. Now, tell us the rest.

A My sister's brother-in-law is Patrolman Fred Drenkhan. ✓

Q He is a patrolman where?

A His name is Fred Drenkhan, a patrolman that was on this case.

Q He was on this case? ✓

A Yes, that's right.

MR. MAHON: Drenkhan.

THE COURT: Drenkhan. Oh, yes.

Out in Bay Village.

PROS. JUROR DAVID: That's right.

THE COURT: Oh, yes.

MR. CORRIGAN: He is a witness, your Honor.

MR. MAHON: He is a witness in the case.

THE COURT: Yes.

Q How well do you know him?

A He is my sister's brother-in-law.

Q How well do you know him?

A Well, I have known him for about four years.

Q And how often do you see him?

A Oh, maybe once a month, or so.

Q Do you folks visit back and forth?

A Yes, we do, now and then.

Q And would the fact that he is associated with this case, and probably will be a witness, would that have any bearing on your judgment at all?

A I do not know. It might.

MR. GARMONE: I would like to say that as far as the defense is concerned, that she be excused for cause. ✓ I don't know what the State --

MR. DANACEAU: Well, it is not exactly for cause, but we will join in requesting that she be excused.

THE COURT: You have no objection to that?

MR. DANACEAU: That's right.

THE COURT: We might as well not waste the time.

Mrs. David, we have nothing against you, but we think perhaps you ought to be excused because it could prove embarrassing. Thank you very much.

PROS. JUROR DAVID: Thank you very much.

(Thereupon Prospective Juror Edith E. David was excused.)

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Thereupon IRENE M. IMHOF, being first duly sworn, was examined and testified as follows:

EXAMINATION OF PROS. JUROR IRENE M. IMHOF

By the Court:

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Q You are Irene Imhof? ✓

A That's right.

Q And you live at 1409 Plymouth?

A That's right.

Q And are you the wife of the gentleman of that name who is a member of the Detective Bureau of the Cleveland Police Department?

A That's right.

Q Do you know whether or not he has worked at all on this Sheppard case?

A I'm pretty sure he hasn't.

Q You do not think he has?

A He hasn't.

MR. MAHON: He has not, your Honor.

Q What is your husband's first name, Mrs. Imhof?

A Ralph.

Q And how long has he been a member of the Cleveland Police Department, roughly?

A 23 years.

Q And he is assigned to the Detective Bureau?

A That's correct.

Q A particular branch of that Bureau, if you know?

A It would be crime. I don't know.

Q Would the fact that he is a member of the police department and has been for 23 years have any bearing at all on your judgment in a case in which members of that same police department were witnesses and were actively engaged?

A Well, I would try that it wouldn't, but I'm afraid it would.

Q You would try?

A I would try very hard not to have any feelings, but I'm afraid it would.

Q Have you and your husband discussed this case at all?

A Well, not very much. Right now he has been home ill for about a month, and we haven't discussed it very much.

Q How many people are there in your household?

A Just three right now.

Q And who is the third?

A My daughter.

Q How old is she?

A 19.

Q And how long have you lived on Plymouth where you now live?

A 13 years.

Q Do you know Mr. Cullitan -- do you know any of these good people who were mentioned here?

A No, I don't know any of them.

Q Those who were mentioned at the opening of the trial.

A Personally I don't.

Q Do you know Mr. Cullitan or any member of his staff?

A No, I don't.

Q Or the Sheriff or any member of his staff?

A No.

Q Or the Coroner, Dr. Gerber, or any member of his staff?

A No, I don't.

Q Have you or any member of your family -- and I will include your husband's family, outside of his experiences in the police department -- have any of them, if you know, ever been visited by violence at the hands of another person?

A I don't think so. Not that I know of, no.

Q Have you ever served as a juror before?

A I was called about 17 years ago, roughly, but I was not allowed on the case.

Q Was that in this court?

A It was -- I started in civil court and I was sent over here, but I was excused.

Q Have you ever appeared as a witness in a case before?

A No.

Q Do you understand that it is the function of a jury to weigh the evidence without regard to who produces it?

A I do.

Q And it may come as a shock to you that the testimony of a

policeman is not more sacred than the testimony of a common laborer, that the testimony always is: What is the truth? Do you understand that it is the function of the jury to weigh all of the testimony without regard to who produces it?

A I do.

Q Physician, lawyer, police officer or any other public official or common laborer.

A Yes.

Q And to be guided by the instructions of the Court as to the law and to arrive at their own conclusions?

A I do.

Q Unhampered by any influence by anybody anywhere beyond the evidence itself and the law as it is to be applied. Do you understand that?

A I do, sir.

Q Have you formed an opinion at all about the guilt or innocence of Sam Sheppard?

A Yes, I have.

Q Do you still entertain an opinion?

A Yes, I do.

Q Speak loudly.

A I do.

Q And is that opinion such that you could disregard it right here and now and start anew from scratch, or is it so fixed that it would take some evidence to remove it?

A I don't think I could change my mind.

Q You don't believe you could change your mind?

A No.

MR. MAHON: Challenge for cause,
your Honor. ✓

THE COURT: All right. You will be
excused.

(Thereupon Prospective Juror Irene M.
Imhof was excused.)

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Thereupon HARRY HILTAYCHUCK, being first
duly sworn, was examined and testified as follows:

EXAMINATION OF PROS. JUROR HARRY HILTAYCHUCK ✓

By the Court:

Q Your first name is Harry -- will you pronounce the second
name for us, so we will get started right?

A Hiltaychuck.

Q H-i-l-t-a-y-c-h-u-c-k?

A That's right.

Q Well, it is pronounced just the way it is spelled.

You live at 7214 Brinsmade Avenue?

A That's right.

Q That is south of Lorain?

A South of Lorain, off of 73rd.

Q And you are a married man, are you?

A Yes, sir.

Q Have you any family other than your wife?

A I have two children.

Q How old are they?

A One is 14, one is 11. Two girls.

Q Is your household confined to just those four people?

A There's only three of us. Me and my wife are separated.

Q What is your occupation, Mr. Hiltaychuck?

A Millwright, Republic Steel.

Q You are a millwright at Republic Steel. And how long have you lived on Brinsmade?

A About 13 years.

Q How long have you been a millwright for Republic Steel?

A About 17.

Q I take it that you were here a week ago last Monday morning?

A Yes.

Q When these gentlemen were named. Do you know anyone around this table?

A Well, the ones that were named last Monday when I was here, I know Dr. Sheppard there, I'd say.

Q I didn't quite catch what you said. Did you say you knew Dr. Sheppard?

A No, just by sight, by his pictures in the paper, that's the only way.

Q Do you know the County Prosecutor, Mr. Frank T. Cullitan, or any member of his staff?

A No.

Q Or the Sheriff or any member of his staff?

A No.

Q Or the Coroner, Dr. Gerber, or any member of his staff?

118 A No.

Q Are there any members of your family -- and by that I include your wife's as well as your own -- who are members of a police department or any law-enforcing agency?

A No.

Q Have you ever served as a juror before?

A No.

Q Ever been a witness in a case?

A No, I don't think so.

Q And I take it that you heard about this Sheppard case before?

A Through the papers.

Q You read the papers?

A Yes, sir.

Q Have you heard comments on the radio or television, or both?

A Both.

Q And have you discussed it with other people, or other people discussed it with you?

A Well, other people discussed it with me and I with them.

Q Yes. And have you as a result of anything that you read or heard or discussed with others formed any opinion as to the guilt or innocence of Dr. Sheppard?

A Yes.

Q You have?

A Yes.

Q Do you have that opinion now?

A Yes.

Q Is that opinion such that you could disregard it now and start all over to listen to evidence and not be guided at all by that opinion?

A No.

Q Do I understand that your opinion is so fixed that it will take some evidence and argument to remove it?

A I don't think it could be removed, your Honor.

Q You don't believe you could remove it?

A No.

MR. MAHON: Challenge for cause.

THE COURT: You will be excused.

(Thereupon Prospective Juror Harry
Hiltaychuck was excused.)

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Thereupon FRED J. BROWN, being first duly sworn, was examined and testified as follows:

EXAMINATION OF PROS. JUROR FRED J. BROWN

By the Court:

Q Your name is Fred J. Brown?

A Yes, your Honor.

Q And you live at 12401 Signet Avenue?

A That's right, sir.

Q That is in the southeast section?

A That's right, sir.

Q Are you a married man, Mr. Brown?

A Yes, sir.

Q Have you a family?

A Yes, sir.

Q What does the family consist of?

A I have a daughter eight and a son three.

Q Do those three people, your wife and those two children and yourself constitute the entire family?

A Yes, sir.

Q How long have you lived on Signet?

A Approximately six years, sir.

Q And what is your occupation?

A United States postal clerk.

Q And how long have you been a postal clerk?

A Since 1948.

Q And are you employed at the general post office?

A No, sir. At 5300 Chester Avenue, Station B.

Q Have you ever been a juror before?

A No, your Honor.

Q Ever been a witness in a case in court?

A Outside of the police court -- I mean traffic court.

Q Do you know anyone of the people who are around this table and who were mentioned to you a week ago last Monday morning?

A What do you mean, sir? You mean personally --

Q Yes, personally.

A No, sir.

Q Do you know any of them by any association at all other than just knowing who they are?

A No, sir.

Q Do you know the County prosecuting attorney of this County or any member of his staff?

A Personally, no.

Q Do you know the Sheriff or any member of his staff?

A No, sir.

Q Or the Coroner, Dr. Gerber, or any member of his staff?

A No, sir.

Q I take it that you have heard of this case, this Sheppard case before?

A Yes, sir.

Q By what means did you learn of it? ✓

A Well, through the radio broadcast and the headlines in the paper.

Q Have you discussed it with other people? ✓

A Yes, sir.

Q Have you ever expressed an opinion as to the guilt or innocence of Dr. Sheppard to anyone?

A No, sir.

Q As a result of what you read or heard or discussed about the matter, have you formed an opinion as to the guilt or innocence of Dr. Sheppard?

A No, sir, I haven't.

Q You understand, Mr. Brown, that it is the function of a jury to weigh evidence, and the jury is the only body which has a right to weigh evidence, and the jury decides all the questions of fact under instructions given to them as to the law by the Court, and then they only determine the guilt or innocence of a defendant, and they do so by weighing the evidence of all of the witnesses and all the evidence and without regard to the station in life, the profession or occupation or what-not of those witnesses; all testimony is alike when first produced, and the jury puts it to one test, and one only: What is true and what is not true, without regard to where it comes from. Do you understand that rule?

A Yes, sir.

Q And could you listen to the testimony here and disregard everything that you have heard or known or discussed about the Sheppard case and confine your judgment to that testimony fairly and impartially under the rules of law that the Court will give you?

A Yes, sir, your Honor.

Q Have you any objection, in a proper case, to capital punishment?

MR. CORRIGAN: Object.

THE COURT: Overruled.

A No, sir.

Q Have you received at any time any communication of any kind or nature by mail, by telephone, telegraph, or whatever it may be, about this Sheppard case?

A No, sir.

Q Now, the State here is seeking to empanel a perfectly fair and impartial jury, a jury that will now presume Sam Sheppard to be innocent and will consider him innocent until all the evidence together in the case convinces a jury that he is guilty beyond a reasonable doubt. Could you sit here, presume him innocent now, and continue to presume him innocent until you hear all the evidence, and even then, unless you are then convinced from the evidence that he is guilty beyond a reasonable doubt?

MR. CORRIGAN: I want to object to the question, your Honor. You state --

THE COURT: I withdraw the question.

MR. CORRIGAN: You said that the State was seeking a fair and impartial jury --

THE COURT: Sir?

MR. CORRIGAN: You stated that the State was seeking a fair and impartial jury. We are, too.

THE COURT: I beg your pardon. I meant to -- I just slipped. My question still stands, then.

19 Q You understand that the State and the defense want that kind of a jury, and there is no difference whatever between them? I slipped. I meant to say it, but I didn't do it. Could you on that basis, knowing that both sides of the trial table want an absolutely fair trial, could you give it to them on the basis which I have stated to you?

A Yes, sir, your Honor.

THE COURT: All right. This is Mr. Parrino, assistant County prosecuting attorney.

MR. PARRINO: Judge, it is now approximately quarter to 12. I believe that my questioning will extend beyond the noon hour. If the Court would desire to adjourn now and reconvene at one o'clock, at the Court's pleasure --

THE COURT: If all parties will agree to be here at one o'clock, we will adjourn now.

Is that agreeable to everybody?

MR. DANACEAU: Will it be all right to have it at 1:15 instead of 1:30? I believe you said one o'clock.

THE COURT: Yes. But we are taking --

MR. DANACEAU: I don't want to make an issue out of it.

THE COURT: What is our time, one or 1:15?

MR. GARMONE: We are agreeable with Mr. Danaceau, 1:15.

MR. DANACEAU: The parties would like to have it 1:15, both sides.

THE COURT: Ladies and gentlemen of the panel, -- let's have it quiet a moment, please -- we will now adjourn until 1:15 this afternoon.

MR. CORRIGAN: Did you want to say something?

PROS. JUROR SOLLI: I want to talk to both of you and the Judge. I don't feel so good.

MR. CORRIGAN: He wants to talk to both of us and the Judge.

MR. PARRINO: He says he doesn't
feel good.

THE COURT: Sir?

MR. PARRINO: Mr. Solli states he
doesn't feel so good, he wants to talk to the
Judge.

THE COURT: He had better come
to chambers, and will counsel on both sides come in?

Will you please observe the caution which
the Court has expressed to you? Do not discuss
this case at all, not even among yourselves, in
the meantime.

- - -

(Thereupon at 11:45 o'clock a.m., an
adjournment was taken to 1:15 o'clock p.m., of
the same day, at which time the following pro-
ceedings were had):

AFTERNOON SESSION, OCTOBER 27, 1954, 1:15 P.M.

S THE COURT: Mr. Solli, in view of what you said to counsel and the Court about your state of health and your immediate problem concerned, of course, with your health, both counsel have agreed that you may be excused on that basis. Thank you very much. ✓

PROSP. JUROR SOLLI: Thank you.

MR. PARRINO: Has the Court completed his questioning?

THE COURT: Yes.

Thereupon FRED J. BROWN resumed the stand and was examined and testified further as follows:

EXAMINATION OF PROSPECTIVE JUROR FRED J. BROWN:

BY MR. PARRINO:

Q Mr. Brown, I am about to ask you some questions some of which will be similar to those that Judge Blythin has already asked you, and when I have completed my questioning of you, then counsel for the defendant will question you concerning certain parts of your background, your general qualifications to serve here as a juror in this trial, and the questions, of course, will be similar to those questions that have been

asked of these many other people that have preceded you to the witness stand. You understand that, of course?

A Yes.

Q And in asking you these questions, we have no desire to pry into your personal affairs for reasons of our own but merely to satisfy the Court and the defense counsel and the defendant and the State and you, yourself, that you could be of service in this case. It is with that in mind that I ask you these questions.

Now, did I understand you to say, Mr. Brown, that you had read some little about this case?

A Yes, sir.

Q And do you recall when it was that you first read about the case?

A I imagine it was about, well, when it first broke, in July.

Q And I presume that you continued to read about it thereafter so long as it was in the newspapers, because it was a matter of some public interest?

A On and off, not in any detail.

Q Not in any detail, is that correct?

A That's correct.

Q Then I take it about the time that you were summoned as a juror you probably saw something further about the case, did you?

A I did.

Q Now, as a result of seeing what little you have seen in the newspapers, you have not formed an opinion, of course?

A No, sir.

Q One way or the other as to the guilt or the innocence of the defendant here, is that correct?

A That's right.

Q Now, if persons have expressed any opinion to you, either at work or at home or among your friends, the opinion that may have been stated to you does not affect your judgment here and now, is that correct?

A That's right.

Q So that as a prospective juror you are perfectly capable, are you, of coming into this room, taking all of the evidence as you hear it in this room to be the facts in this case; that is your position, is it, sir?

A That's right.

Q You have never appeared as a juror before, I think you told Judge Blythin?

A That's right.

Q And I think you said something about being a witness in some cases in Municipal Court, traffic violations or something?

A Yes. I was involved in an accident. I wasn't but a woman ran into me, and I had to see that my car got fixed, that's all.

Q It was a conflict of opinion, I presume, at the time as to who

was at fault?

A My prime interest was getting my car fixed, seeing the insurance taking care of my car.

Q That's only natural, of course.

A Yes.

Q And that is your only experience?

A That is right, sir.

Q Now, in the State of Ohio, Mr. Brown, we have laws pertaining to capital punishment, of course. You know, do you, that where a jury hears a case in this state of first degree murder and returns a verdict of guilty, that in that case the law provides that the punishment will be death in the electric chair? You know that, of course?

A Yes, sir.

Q And do you have any religious beliefs or conscientious beliefs that would make it impossible for you to serve on a jury where the penalty would be death?

A No, sir.

Q You could enter into service in a case of this kind?

A Yes, sir.

Q Now, I am sure that you have some understanding, Mr. Brown, as to what your duties will be as a juror in this trial, do you not, sir?

A Yes, sir.

Q And principally, I would say that the function of any jury is

to determine what the facts are in a given case. You are the judges of the facts, in other words; Judge Blythin is the judge of the law. You folks in the jury box will listen carefully to what each of the witnesses has to say during the course of the trial in order to determine what the facts are. Will you do that, please?

A Yes, sir.

Q And give to all of the witnesses your undivided attention so that you will be in a position to know what all of the facts are when you deliberate as a juror at the conclusion of the case, you will do that, of course?

A Yes, sir.

Q Now, you know that Judge Blythin, of course, has a very important and specific function in this trial, and that will be to describe for this jury at the conclusion of all of the evidence what the law is that applies in this case. He will state for you what constitutes first degree murder, he will describe for you what constitutes premeditation and malice, all of the technical terms of law with which you may not come into contact, Judge Blythin will describe them all to you at the proper time. And the question that I have to ask you is this:

When that time arrives, will you listen to whatever Judge Blythin states to you at that time and take all that law and apply it to the facts in the case? Will you do that,

please?

A Yes, sir.

Q And, of course, we know from our experiences that many people have many views as to what the law is in particular cases, but for the purposes of this case you realize that it becomes important that you take and accept only those rules of law which Judge Blythin gives to you as being applicable in this particular case, is that correct?

A Yes, sir.

Q Now, you have stated, of course, except for what you have read in the newspapers and may have heard, that you are not acquainted with any of the parties who will participate in this lawsuit, is that a fact, sir?

1 A That's right.

Q Have you at any time had any contact whatsoever with Bay View Hospital?

A No, sir.

Q Or anybody who has been a patient of that hospital?

A Not that I know of, sir.

Q So far as you know?

A Not that I know of, sir.

Q No one that has been associated or connected with the defendant or any members of the defendant's family in any way, so far as you know?

A No, sir.

Q And the same would apply, of course, to the prosecution, to Mr. Mahon, to Mr. Danaceau or to myself, is that a fact, sir?

A That's right, sir.

Q Are you acquainted with Mr. Merle McCurdy, who is in our office, personally acquainted with him?

A No, sir.

Q Now, Mr. Brown, in judging the facts in this case, his Honor, Judge Blythin, will state to you that you folks are the judges of the credibility of the witnesses. Now, that is a rather high-sounding phrase which means substantially that it will be for you as a juror to determine which of the witnesses is telling the truth and which of them, if any, may not be telling the truth. And it will be for you to determine how much weight you will apply and attach to all of the witnesses who testify in this trial. Do you understand that, sir?

A Yes, sir.

Q So that he will lay down for you certain exact standards which you jurors will apply to the testimony of all of the witnesses. Will you take those standards and apply them in this case?

A Yes, sir.

Q Now, being the judge -- rather, the jury, being the judges of the credibility of the witnesses, Judge Blythin will state

to you that you may believe who you choose to believe and you may disbelieve who you choose to disbelieve. Will you take that law and apply it to the case should Judge Blythin so state to you?

A Yes, sir.

Q And he will state to you that in judging this case, in judging the facts, in judging the weight or the value that you will give to all of the witnesses, you may take into account how they testify; in other words, as you see a person on the witness stand or on the street or at your work, you may gain certain impressions by the way that they conduct themselves, whether they appear to you to be forthright and sincere or whether they do not have those qualities; and if a person seems forthright and sincere and direct with you as a witness, will you attach greater weight to the testimony of that witness as he testifies? Will you do that, sir?

A Yes, sir.

Q And on the contrary, if he does not appear to have those qualities, I take it that you will attach less weight to the testimony of that particular person, is that your position?

A It all depends.

Q Well, I take it, then, that this is the way you feel: If, as you hear a person speak and talk on the witness stand, he

appears to be backward or not sincere, doesn't seem to be forthright to you, that you will take that into consideration in evaluating his testimony? Will you do that, please?

A (No response.)

Q I am probably not making myself clear.

A Yes, that's right. State it in another way, will you, please?

Q Yes. Now, as a person testifies, as he sits there where you sit, if he seems to be honest and sincere and direct to you as you see him, as you hear him talk, you will attach a certain amount of weight to his testimony because of that, will you not?

A Yes, sir.

Q And then if he does not have those qualities, if he seems to be not sincere and not direct and gives you the impression that he is not telling all, on the basis of his demeanor on the witness stand, then, I take it you will add less weight to the testimony of that particular witness. Now, should Judge Blythin state to you that you may do that, you may evaluate witnesses on that basis, will you follow the Judge's instructions in that respect?

2 A Yes, sir.

Q Similarly, when a person has told his story on the witness stand, whoever that person may be -- he may be a witness for the State, he may be a witness for the defense; any person at

all -- if after you hear what that person has to state you come to the impression that, "Well, what he states to me now certainly appears to be reasonable, so I will believe it," will you take that position, sir?

A In consideration with other facts along with it, yes.

Q In other words, if a person gives you a story, you add it up, you consider it carefully and you say to yourself, "Well, that sounds logical, that sounds reasonable, so I will believe that," will you take that position?

A Yes, sir.

Q And then, on the other hand, if as a person testifies it seems to you that what he is saying could not be because it doesn't sound reasonable or doesn't sound logical, would you take and give that particular phase of the witness's story less weight than you might otherwise do? Will you do that?

A Along with the facts, yes, sir.

Q Yes. So if the Judge states to you that you as a juror may also take into the account the interest or the lack of interest that a juror -- rather, that a witness has in the case, will you follow the Court's instructions in that regard?

A Yes, sir.

Q Now, for instance, if a witness who testifies would have some important and direct interest in the outcome of this trial, you might weigh that as a juror, might you not, sir?

A Yes, sir.

Q And you would give that such weight as you would think reasonably you should in a trial of this kind?

A I have to, sir.

Q Beg your pardon?

A I have to.

Q And if the Court states to you that you should use that as one of the guides or gauges in judging the testimony of the witnesses, will you follow the Judge's instructions in that regard?

A Yes, sir.

Q So in judging the testimony of any witness, you will take into account whether they appear to be sincere to you, whether their story seems to be reasonable or unreasonable, whether it is probable or not probable, whether they have an interest in the case, in the outcome of the case, or whether they do not have an interest in the outcome of the case, and you may take all of this into consideration in judging the credibility or the truthfulness of a witness. Will you do that, please?

A Yes, sir.

Q Now, I have stated to you, and I am sure that you appreciate, that you may take and apply those rules for all the witnesses, the State's witnesses and the defense witnesses, and I anticipate that there will be many; you understand that?

A Yes, sir.

Q And that same rule of evaluating the testimony of witnesses applies to the testimony of the defendant himself, Sam Sheppard. You realize that, of course, do you not?

A Yes, sir.

Q And you will give and apply the same standards of evaluating testimony to the testimony of the defendant should he testify as a witness in this case, is that correct, sir?

A Yes, sir.

Q Now, Judge Blythin in his charge to you at the conclusion of the trial will state that as a juror you may take into account both direct evidence and circumstantial evidence. He will describe both of these to you, and I am sure that you will take and accept his description of direct evidence and circumstantial evidence and apply that description in this case. Will you do that, please?

A Yes, sir.

Q And so far as you now know, do you have any prejudices against circumstantial evidence?

A No, sir.

Q Do you realize that direct evidence is something that a person would be able to testify to as a result of what he, that witness, has himself seen or heard of felt, something that he himself has first knowledge of? You realize that?

A That's the definition of it?

Q Of direct evidence.

A Yes, I see that.

Q In other words, if you see some accident on the street, you could come into a court of law and tell directly what you saw as a witness to that event, and that would be direct evidence. You understand that, of course?

A Yes.

Q And circumstantial evidence would be the reasonable inferences that would follow from proven facts. Let me attempt to explain that to you in some way, if I may, please, Mr. Brown.

Now, do you own an automobile, sir?

A Yes, sir.

Q Now, let us assume for a moment that you would park your automobile in front of your house some night, and as you are sitting in the parlor of your home you hear a tremendously loud crash. So you rush from your home, you go outside and there you see your car. Before the crash, let us assume that you heard the screeching of an automobile as though somebody were making a rapid or quick stop; that after you hear the screech of the brakes, you hear this loud crash. You go outside and you see the back of your car, which has been demolished, and you see long skid marks leading from an automobile up to your automobile, you see long skid marks on the road leading right up to your car. That there is another car that has run into your car there, also, and that car is completely demolished, also, and that car that ran into

your car has produced 60 feet of skid marks, let us say.

Do I make myself clear, sir?

A Yes, sir.

Q So you see these 60 feet of skid marks. You have heard the loud screeching of brakes when you were in your home. You heard this loud noise, and you see that both cars are demolished. And you speak to the driver of this car that bumped into your car, and he states to you that he is sorry, that at the time of the accident he was only going 20 miles per hour. Would you believe that man?

A No, sir.

Q And why wouldn't you believe him?

A From the skid marks.

Q Now, you didn't see him bump into your car, did you?

A No, sir.

Q There are no other witnesses other than this driver of the car, are there?

A No, sir.

Q But when he states to you that he was going 20 miles per hour, you say you would not believe him, is that correct?

A No, sir.

Q That is because you heard the screeching of brakes, you heard this loud crash, you see these skid marks, you see that both cars have been demolished, and on the basis of all of these things you have an impression in your mind, do you not?

A That is right.

Q And what is that impression you have in your mind, please, as to whether he was going 20 miles an hour or not?

A Well, he was prevaricating. He was probably going at a much faster speed than that.

Q In other words, although you haven't seen any part of it, you can reasonably come to the conclusion that this man was going in excess or faster than 20 miles per hour?

A That is right.

Q Now, that is a simple example, sir, of circumstantial evidence.

You will follow the Court's instructions as to circumstantial evidence to the letter as he gives them to you in this case, will you not, sir?

A Yes, sir.

Q Now, during the time that you have had or read some comment about this case in the newspapers, sir, did you at any time read a story in the local papers titled, "Dr. Sam's Own Story"? Did you ever read that, if you remember?

A No, I never read it.

Q And do you recall reading any of the stories that were -- statements that were issued to the newspapers by Mr. Corrigan and Mr. Garmone? Do you recall having read any of those, please?

A I don't recall.

Q And do you recall having read any of the statements that were issued to the papers by Dr. Stephen Sheppard, the brother of the defendant, do you recall that?

A I don't recall.

Q You appreciate, of course, Mr. Brown, that this defendant comes into this courtroom charged with the crime of murder in the first degree, do you not?

A Yes, sir.

Q And that he is here by reason of an indictment presented by the Grand Jury? Do you know in a general way what an indictment is, sir?

A Well, not in the legal way.

Q Well, let me explain it to you so that you will have it in your mind. An indictment is merely an instrument in writing that is given to the defendant charging him with the crime of -- whatever that crime may be, in this case murder in the first degree. It is an instrument in writing that is given to him so that he may fully realize and appreciate the nature and character of the crime with which he is charged, so that he may be able to come into court to defend that charge. You understand that?

A Yes, sir.

Q And the Court will state to you that the indictment is not evidence, that although you as a juror will have that indictment with you, that it does not constitute evidence in this

case. And will you take the Court's instructions in that regard?

A Yes, sir.

Q Now, you appreciate, do you, Mr. Brown, that Judge Blything, being the presiding personality over this trial, is here for various reasons, as I have stated to you, one of them being that he is to give you the law at the conclusion of the case. And you have stated that you will follow the law that Judge Blythin gives to you, is that correct?

A Yes, sir.

Q Now, furthermore, Judge Blythin will preside over this trial so that during the course of the trial, no doubt, there will be numerous objections by the defense side of the table and by the prosecution side of the table, in all probability. Some witness will say something, or one of the lawyers will say something that one side or the other will not think is proper. This happens all the time in a court of law. You understand that, do you?

A Yes, sir.

Q And we all have our own impressions as to what we, as lawyers, may think the law is in a particular instance. And there must be some central force that ultimately decides what the law is in a trial, and in this case that is Judge Blythin.

Now, as these objections are made, sometimes by the State and sometimes by the defense, Judge Blythin will have to

rule upon them. In other words, he is going to have to decide who is right and who is not right, isn't that correct?

A That's right.

Q Now, when Judge Blythin states, when an objection is made, that the objection is sustained, then it will be your duty to disregard whatever has been said in that particular respect up to that point. You understand that?

A Yes, sir.

Q Now, where the objection is made and the objection is overruled, then it will be for you to take and accept as part of the evidence that which a particular witness is saying. You understand that?

A Yes, sir.

Q Now, of course, during the course of the trial Mr. Mahon may get up and make a statement to the Court in the presence of the jury, or Mr. Corrigan or Mr. Garmone or any of the gentlemen on the other side of the table may get up and make some statement to the Court. Now, you see, they are not on the witness stand at the time they make such a statement, of course, and that which they say at that point certainly is not evidence. You appreciate that, do you?

A Yes, sir.

Q That the evidence comes to you only from the witness stand, is that not correct?

A Yes, sir.

Q So that whatever these gentlemen may say, and the possibilities are that I may be one of them that may sometimes state something that is a comment to the Court, and what I say is not evidence because I haven't taken the witness stand. You understand that, of course?

A Yes, sir.

Q So that you will not take as evidence any comments of counsel at any time as they speak from the floor, isn't that correct?

A Well, if that is the procedure, yes, sir.

Q And the Court will state that to you, that the comments of counsel here as we speak to the Court, and sometimes even as we speak to the jury in our opening statement or in our closing argument, that is not evidence. You understand that, don't you?

A Yes, sir.

Q That the evidence, as you well know, is that evidence which comes to you from the witnesses, and we lawyers, of course, are not witnesses unless we take the witness stand, isn't that correct?

A That's right, sir.

Q Now, in any case, Mr. Brown -- of course, you know that it is very important that all cases be decided on law and on fact, and that insofar as is humanly possible, you do not permit any of your emotions of prejudice or bias or sympathy to enter

into a verdict. You know that, don't you?

A Yes, sir.

Q So I ask you, if I may, please, will you at any time let any form of prejudice enter into your verdict in this case?

A No, sir.

Q Will you let bias of any character enter into your verdict in this case?

A No, sir.

Q And similarly, and quite important, also, will you let sympathy of any kind enter into your verdict in this case?

A No, sir.

Q Will you let sympathy for the defendant enter into your verdict in this case?

A No, sir.

Q Will you let sympathy for the family of the defendant enter into your verdict in this case?

A No, sir.

Q Your verdict, then, will respond to the facts as you hear them in the courtroom, will it, sir?

A Yes, sir.

Q It will respond to the facts as you hear them in the courtroom together with the law as Judge Blythin gives it to you?

A Yes, sir.

Q Is that the position you take?

A Yes, sir.

Q Now, Mr. Brown, you are a man of sound judgment. I ask you to look into your mind at this time, if you will, please, and I am sure that you have been giving to this case very serious thought since you have been summoned as a juror, have you not?

A Yes, sir.

Q Look into your mind now and tell us, on the basis of what little you have known about the case, what little you have been told by Judge Blythin and myself, whether or not you feel that there is any possible reason why you could not serve as a juror in this case?

A There is no reason that I can think of, nothing at all.

Q Then you are perfectly free and willing to take the law as Judge Blythin gives it to you?

A Yes, sir.

Q To take the facts as you hear them in the courtroom?

A Yes, sir.

Q And arrive at a verdict which is in your best, sound, conscientious, honest judgment, fair and impartial to the defendant, Sam Sheppard, is that correct, sir?

A Yes, sir.

45 Q And to the State of Ohio?

A Yes, sir.

Q Who we have the privilege of representing, is that correct?

A Yes, sir.

Q Fair to both sides, and let the chips fall where they will?

A Yes, sir.

MR. PARRINO: Thank you very much.

THE COURT: . That is Mr. Garmone of the defense counsel, Mr. Brown. He would like to put a few questions to you.

EXAMINATION OF PROSPECTIVE JUROR FRED J. BROWN:

BY MR. GARMONE:

Q Mr. Brown, some of the questions that I will ask will be more or less repetitious to the questions that were asked of you by his Honor, Judge Blythin, and the questions that Mr. Parrino asked you. However, you appreciate the fact that we have a responsibility to inquire into the qualifications of a person before they become members of the jury, do you not?

A Yes, sir.

Q Now, you did say that you had read some articles in the newspapers and had heard some radio comments and television comments about this case. Did at any time during any of those periods, or did you at any time during any of those periods form in your mind an opinion that you may never have expressed to anyone?

A Well, I'll tell you how I felt about it. I was disinterested in the whole case.

Q You were just disinterested in it?

A That's right. I was away for part of the summer, in August, and I read no more than anyone else. I saw the headlines in the paper, read maybe one or two lines and then let it go. I didn't have any opinion.

Q But as a result of what little you did read and what little comments you did hear, you didn't come to any conclusion in your mind about this matter?

A No. It wasn't for me to form any opinion on it. That's the way I felt about it. I mean, I was disinterested.

Q You felt that it wouldn't be fair for you to form any opinion on the statements that you read or the stories that you heard by way of radio or television, is that right?

A That's right, sir.

Q Now, you are connected with the postal system of our government, right?

A That is right, sir.

Q And you are at 5300 Chester Avenue.

A That is right, sir.

Q Station B?

A That is right, sir.

Q Now, are you an inside or an outside man?

A I am an inside man.

Q And have you been an inside man for a period of years, or is that just a --

A A period of years, since I have been in the Service.

Q Since you have been in the Service you have been an inside man?

A Yes, sir.

Q About how many people would you say are employed at Station B that you come in contact with every day?

A Well, we have about 15 or 16 clerks, and I don't know, about 75 carriers.

Q And you probably see one another every day?

A Well, the clerks, yes.

Q Now, from the time that the stories first broke in the newspapers, was there any discussion around Station B about Sam Sheppard or any member of the Sheppard family?

A Yes, sir.

Q And during that period, were there some opinions expressed by some of your fellow workers?

A Yes, sir.

Q And when would you say was the last time you heard an opinion that was expressed by a fellow worker prior to the date that you were officially notified that you were to be called as a prospective juror in this case?

A Well, let's see, it must have been back in July, because I left on vacation the 9th of August and didn't get back until about the 18th or 19th of August.

Q Sometime around the 18th or 19th of August?

A No. It was before then. It was in the last part of July, I imagine.

Q The latter part of July?

A This discussion of the case simmered out.

Q The discussion kind of faded out, is that right?

A That's right, sir.

Q Now, during the period that expressions were made to you about what your fellow workers thought about the matter, did you, in turn, say anything to them as to how you felt?

A Like I told you before, I was always disinterested in the case. I mean, I didn't form any opinion on it. It didn't matter one way or the other to me.

Q And you wouldn't permit to creep into your mind what the opinions of those fellow workers were while you were sitting here and listening to the facts that you hear in this courtroom, would you?

A No, sir.

Q You see, sometimes when we hear statements made by people that we are in close contact with every day, we kind of bury them back in our subconscious mind and somewhere along the line you may hear a statement of fact by a witness that will correspond with a statement that was made by one of your fellow workers, and it may bring it back to life again.

Do you think that you can disregard all the expressions that were made to you by your fellow workers and just take

what you hear in this courtroom?

A Yes, sir.

Q Have you read any accounts of this case since the time that you were brought in here on the 18th of October of this year?

A Yes, sir. No more than the headlines or something. I have not read any complete articles on the case.

Q Well, in addition to the headlines that you read, did you sort of just scamper over some of the other material that constituted or made up the headline?

A No, sir.

Q Just gazed at it?

A No, sir.

Q Only read the headlines?

A That's all, through seeing it on somebody else's paper. I didn't even buy a paper. We get a paper at home at night, but I don't bother to look at it.

Q You don't bother to look at it?

A Outside of the sport page.

Q Well, I'm glad to hear that. Mr. Moravec is an admirer of the sport page, too.

So then you have no knowledge of what the newspapers have carried from the time that you were brought in here on the 18th of October, is that right?

A That's right, sir.

Q And during the course of the trial, if you are chosen as a juror, the Court will admonish you from time to time that you are not to read any articles in the paper, and I know it is hard to do. If I were in your place, I would probably have a difficult time. We all have a certain degree of curiosity that we grow up with.

But you do feel, do you, Mr. Brown, that you can follow the Court's admonitions in that respect to the letter?

A Yes, sir.

Q You see, what we must guard carefully -- and I think that you will agree with me -- the only facts that any of these ladies and gentlemen are to consider, if they are going to give this young man a fair and impartial trial, are the facts that they will hear in this courtroom. And sometimes we in our examination think that we deal too much on that subject matter, but we can't be too impressed. We've got to make you realize that it is important that the only facts that you are to consider are the facts that you hear in this courtroom.

And I think that you appreciate that, do you not, Mr. Brown?

A Yes, sir.

Q Now, on the question of facts, Judge Blythin in his instructions on the law will tell you that you are the sole judge of

the facts, that I, Mr. Parrino, Mr. Danaceau or Mr. Mahon, and even his Honor, Judge Blythin, cannot interfere with your interpretation of those facts; that you, Mr. Brown, have the full right and the full authority to give those facts the interpretation that you think they are worthy of, regardless of what the Court may intimate or his feelings may be on a particular subject matter, setting aside what you may gather my feelings may be on the same subject matter, those facts are for you to interpret. And you will follow that instruction of the law, will you not?

A Yes, sir.

Q Now, if after you have heard all the facts in this case, and Judge Blythin gives you the law that is applicable to the facts that you have listened to, you decide that the State has failed to convince you beyond a reasonable doubt of Dr. Sam Sheppard's guilt, would you hesitate in joining with the other members of the jury in returning a verdict of not guilty?

A No, sir.

Q If after you have absorbed all these facts and have given them the consideration that they are deserving of, which I know you will do, and after there has been a discussion with your fellow jurors on the facts that you have heard in this case, you are then still firm in your conviction that the State of Ohio has failed to convince you beyond a reasonable

doubt of Sam Sheppard's guilt, would you at that point hesitate to vote for a verdict of not guilty?

A Yes.

Q You would or you would not?

A I would have to be sure within myself.

Q Within yourself?

A Within myself.

Q Before you would return --

else
A Regardless of what anybody/would think.

Q Regardless of what anybody else would think?

A That's right. I would have to be -- I would have to have it within myself.

Q But you would be willing at the same time to discuss with the other members of the jury the overall factual picture?

A That's right.

Q And if you still think that at that time, after the discussion, that you haven't been convinced beyond a reasonable doubt of Dr. Sam Sheppard's guilt, you wouldn't hesitate to return of not guilty? You would do that, would you not?

A Yes, sir.

Q Now, on the question of law, Mr. Parrino covered that subject matter rather thoroughly. That is the Court's function. Any phase of this case that deals with the law rests with his Honor, Judge Blythin.

You know, you and I sometimes in our everyday problems

have some ideas of what we think is right and what we think is wrong. The best example is this: There may be something come up in Station B sometime where your idea of the situation may differ from some of your fellow workers. It is only human nature. And sometimes if we are chosen as jurors we get an idea that we think that we know what the law is or what the law ought to be. If you get any notions on that subject, you can set them aside, can you not, and follow the instructions of Judge Blythin?

A Yes, sir.

Q I don't believe there has been too much mention made about the indictment in this case. I think Mr. Parrino said to you if you understood what the indictment represented, and your answer was that you had some idea on it, is that correct?

A I asked him to give me a definition of the indictment, and he gave me a definition of it.

Q An indictment is an instrument that is returned by the Grand Jury of this county that apprises the man of what he has been charged with and what he must come into court to answer.

Now, before the returning of an indictment there is presented to that Grand Jury witnesses, and the witnesses that are presented are only those witnesses that the State of Ohio takes in and offers. In other words, it is a one-sided hearing. Sam Sheppard wasn't afforded the opportunity of presenting his side of the story, nor was he privileged with

presenting any of the witnesses that he may have to tell his side of the issue.

So because of that fact it is a one-sided hearing, and the Court will tell you, that although you take with you to your jury room a copy of that indictment, that you are at no time or under any circumstances whatsoever to consider it as evidence in this case.

Now, will you follow that theory of law?

A Yes, sir.

Q Now, is there any question in your mind, Mr. Brown, as to whether or not the fact that there has been an indictment returned against Sam Sheppard, that there is any presumption of guilt as he now sits in the chair on the other side of the table?

A No, sir.

Q You presume Sam Sheppard to be innocent at this time, is that right?

A Until proven guilty.

Q That is the law, and Judge Blythin will instruct you that that is the law.

Now, in conjunction with the latter part of your answer, until proven guilty, that burden of proof is with the gentlemen on this side of the table who represent the State, and it never changes, it never switches over to the other side of the table to Sam Sheppard. It is incumbent at all

times throughout the trial of this case that you be convinced beyond a reasonable doubt of the defendant's guilt, it is incumbent upon the State to satisfy you to that extent.

That is the law and the Court will so instruct you that that is the law. And will you follow it as such?

A Yes, sir.

Q Now, do you know Inspector McArthur, this gentleman here?

A Yes. His Honor, Judge Blythin, introduced him to us the first day we were in here.

Q Only from the introduction that you had in the courtroom?

A That's right.

Q And this is Sergeant Lockwood. He is also a member of the Cleveland Police Department. Do you know him other than the introduction which you had the first day here?

A No, sir.

Q Now, members of Inspector McArthur's division of the Cleveland Police Department will testify in this case, detectives that work under him. Would the fact that they are police officers cause you to give their testimony greater consideration than you would a layman only because they are police officers?

A No, sir, outside of the fact that I would gather that a policeman would have more facts in the case than an ordinary layman.

Q Well, now, let's talk about that a while. Maybe I don't understand you.

A Maybe I don't understand you.

Q Probably my question wasn't clear.

THE COURT: Let's get an understanding here.

Q Well, we are going to try, Judge, with a little patience.

You say that only -- that you may feel that a policeman has a greater understanding of the facts than a layman would have?

A No, sir. I would say it this way: He would have more access to the facts than the ordinary layman.

Q Well, then, putting this question to you: For the reason that he has more access to the facts than an ordinary layman, would that cause you to give their testimony greater consideration?

A I have to consider the facts. I would have to consider the facts that he presented.

Q Well, if you felt in your mind that he had greater access to the facts than a person, a fellow citizen that we may bring in off the street to testify on the same statement of fact, would you under that picture give the police officer greater consideration than the person that we bring in off the street testifying on the same set of facts?

MR. PARRINO: I object to that.

THE COURT: I think that is --

A Yes, sir, I would.

MR. PARRINO: If the Court please --

MR. GARMONE: May I --

MR. PARRINO: Just a moment.

THE COURT: We are getting along all right. It is a perfectly proper basis for the gentleman to give consideration to the opportunity which a person has to know the things that he testifies to, and that is exactly what he is trying to say.

MR. CORRIGAN: I except to the statement of the Court.

THE COURT: Go ahead, Mr. Garmone.

MR. GARMONE: Are we all through now?

MR. DANACEAU: Yes.

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Q Now, on that same subject, supposing that Captain Kerr, who works directly under the supervision of Inspector McArthur, was called upon as a witness in this case and he offered for your consideration as a juror testimony relating to some of the incidents that brought about the charge that Sam Sheppard now faces, and there was brought into this same courtroom a gentleman who in no way is associated with the office of Inspector McArthur but who would occupy the same witness chair as Captain Kerr, and he would relate to you facts relating to the incident or incidents relating to the charge that Sam Sheppard now faces, are you of the opinion now that you would have to consider Captain Kerr's testimony with greater

degree because he is Captain Kerr than you would the citizen that was brought in to testify on behalf of Sam Sheppard?

A I will answer it this way: I would have to take into consideration, not because he was Captain Kerr, but because I feel since he works there he would have more access, as I said before, to the facts in the case than the ordinary layman on the street, and it would also depend on what you would be questioning about. I would have to take all that into consideration, too.

Q Well --

A Maybe this layman doesn't know anything about the case, I mean just what he read in the papers.

Q Well, supposing that he was testifying on the same issues that a police officer was testifying on, would you give the policeman greater weight because he is a policeman rather than what he says than you would the layman who is not a policeman?

A It would all depend. I mean, I can't answer it vaguely. I mean, it all depends on what they are going to be asked in relation to the --

Q Well, Mr. Brown, supposing that you were in the jury box and a police officer took the stand, and he told you a story that had bearing on the case of the State of Ohio versus Sam Sheppard. As against that, an ordinary citizen, a layman such as you and I and other members of this jury, was placed

in that witness chair and you were in this jury box, and he would submit for your consideration testimony that has bearing on the case of the State of Ohio versus Sam Sheppard, would you because of the fact that the first witness you heard was a member of the Cleveland Police Department consider him with greater consideration than you would the second witness that you heard who was not associated with the Police Department?

I ask you to be frank in your answer. That is all we ask you to do. And I am satisfied that you want to be frank in your answer.

A Yes, I want to be frank with my answer, but I still say it would depend on what question you would be asking these people. I mean, it might be some intricate facts of the case that an ordinary layman wouldn't know anything about.

Q Well, regardless of the question, regardless of the question, would you give the policeman, because he is a policeman, more consideration or a greater edge on the yardstick of measure --

A No, sir; no, sir.

Q -- than you would an ordinary citizen or a layman because one is a police officer and the other man is a fellow citizen who is not connected with the Police Department?

A Well, when you put it that way, I couldn't give the policeman any greater consideration because when they all get in this

witness box here, layman or policeman, you are under oath and supposed to give an answer to the best of your knowledge.

Q Best of your knowledge?

A That's right.

Q And when you measure the testimony, you use the same yardstick?

A That's right.

Q There is no question in your mind about that, is there, now?

A That's right.

Q Now, there will be some doctors called into this case, doctors who are members of the medical side and doctors who are doctors of osteopathy. Do you have any ideas or feel that there is any distinction between doctors of medicine and doctors of osteopathy?

A I don't know that much about medicine. Will you define it?

Q Well, I don't think I am able to define it, now that you ask me, because I have never been able to draw the distinction between the two.

A I have no idea --

Q Well, suppose a man has a degree of doctor of medicine and another doctor has a degree of doctor of osteopathy, would you feel because the one person had a degree of doctor of medicine that he should be looked upon with greater light than the gentleman who has a degree of doctor of osteopathy, or will you use a yardstick that is equal in measuring both?

A I would use a yardstick that is, you know, take it all into consideration.

Q I can say this to you, Mr. Brown: That the examination that doctors of medicine take and that the examination that doctors of osteopathy take is one and the same, and under the law, they have a right to engage in the same kind of practices. So you have no feelings about doctors on one side of medicine and doctors on the other side, osteopathic?

A No, sir, no feeling whatsoever.

Q Do you know anybody that is connected with Dr. Gerber's office?

A Not that I know of, no, sir.

Q Well, I will try and name some of the doctors who are associated out there with Dr. Gerber. Dr. Adelson, do you know him, or have you ever heard of him?

A No, sir.

Q Do you know a Dr. Sunshine?

A No, sir.

Q Dr. Chamberlain?

A No, sir.

Q Do you know a young lady by the name of Mary Cowan?

A No, sir.

Q Then you know no one that is connected with Dr. Gerber's office?

A No.

Q Now, that brings me to a question that is similar to the question that I asked you about the police and the layman. Would the fact that doctors who are connected with the coroner's office cause you to give them more consideration than you would doctors who would be brought in to testify for the defense only because they are connected with the coroner's office, or would you treat them both alike?

A I would have to treat them both alike.

Q You don't feel that the coroner's office would have access to a greater amount of facts than doctors who are not associated with the coroner's office, do you?

MR. MAHON: Objection to that.

MR. DANACEAU: Just a minute. Objection.

MR. MAHON: Read the question back.

(Question read by the Reporter.)

THE COURT: It will be sustained.

Q Well, would you look upon the testimony of doctors who are connected with the coroner's office with greater consideration than you would the doctors who Dr. Sheppard will bring in here to testify on his behalf?

MR. MAHON: I object to it in that form.

MR. GARMONE: I haven't completed the question yet.

MR. MAHON:

Pardon me.

Q (Continuing) Because of the fact that they are connected with the coroner's office?

A You couldn't state that question some other way? I mean, how would I -- it all depends on what -- like I told you, it all depends on what the doctors from the coroner's office would be brought in here to testify to.

Q Well, supposing that they were brought in here to testify on a subject matter or a statement of fact that was the same, that is, doctors from the coroner's office would testify to some facts that were similar to the facts that would be testified to by doctors who were brought in here in behalf of Dr. Sheppard, would you, because they are connected with the coroner's office, be apt to give their testimony more consideration than you would this other group of doctors who are not associated with the coroner's office?

A If the facts were presented -- or, I will put it this way: If both parties, the doctors from the coroner's office and the other doctors, have access to the same facts, I would have to treat both the same. But if the coroner's office had access to certain facts that I didn't -- I mean that the other doctors didn't have access to, I would have to give the coroner's office more consideration.

THE COURT:

Mr. Brown, I am not sure

that you get Mr. Garmone's point. Let's see if we can

clear it up.

Without regard to their access to the facts, just forget that for the moment, what Mr. Garmone wants to know is: Would you give more weight to the testimony of a doctor because he is connected with the coroner's office than you would to a doctor that is not connected with the coroner's office?

PROSP. JUROR BROWN: No, sir.

Q I assume, then, that you would treat them alike, is that right?

A Yes, sir.

Q Now, Mr. Brown, the only purpose of our examination is to determine in our minds whether we feel, and to help you determine in your mind whether you feel you can sit as a fair and impartial juror in this case. Now, Sam Sheppard is entitled to a fair and impartial trial, and you are satisfied that you can give him that trial, is that right?

A Yes, sir.

Q I ask you now to search your conscience and determine for yourself, without any further examination, whether you are able to accept the responsibility that you will receive as a juror in deciding the guilt or innocence of this young man?

A I am able and willing to assume the responsibility.

Q Are you able to assume the responsibility, if chosen as a

juror, one step farther than the guilt or innocence of this man, this young man, that is, you will have with you the authority to take the life of a human being. And do you feel that you are ready to accept that responsibility fairly and impartially?

A Yes, sir.

MR. GARMONE: Thank you very much.

THE COURT: Will you take that seat
at the end there in that first row, Mr. Brown, please?

- - -

Thereupon WILLIAM C. LAMB, being first duly sworn, was examined and testified as follows:

EXAMINATION OF PROSPECTIVE JUROR WILLIAM C. LAMB:

BY THE COURT:

Q Is your name, sir, William C. Lamb?

A Yes, sir, it is.

Q L-a-m-b?

A That's right.

Q And you live at 6078 Deering Avenue in Parma?

A Parma Heights.

Q Parma Heights?

A Yes, sir.

Q Oh, that's good. And how long have you lived at that Deering Avenue, Parma Heights address?

A Approximately two years.

Q And where did you live before that?

A On Maplecrest Avenue in Parma.

Q Have you a family, Mr. Lamb?

A Yes, sir, I do.

Q And what does your family consist of?

A Two girls, a boy and my wife.

Q And how old are the girls and the boy?

A The boy is two and a half and the girls are five and six.

Q And does that constitute your entire household? Is that

all the family there is in your household?

A That's right, sir.

Q What is your occupation, please.

A I am a construction superintendent.

Q For whom?

A Brookpark Construction Co.

Q He is a construction superintendent for the Brookpark Construction Co.

How long have you held that position?

A Oh, about two years.

Q Have you ever served as a juror before?

A No, sir, I haven't.

Q And have you ever been a witness in a case in court before?

A No, sir.

Q You were here, I take it, a week ago Monday morning when the Court presented the good people around the table here. Do you know any of them?

A No, sir, I don't.

Q Do you know Mr. Frank T. Cullitan, the County Prosecuting Attorney of this county or any member of his staff?

A No, sir.

Q Or the sheriff or any member of his staff?

A No, sir.

Q Or the coroner, Dr. Gerber, or any member of his staff?

A No, sir, I don't.

Q I would like to include your wife's family and yours when I mention family in this question. Are there any members of your family who are members of any Police Department or any law-enforcing agency of any kind anywhere, if you know?

A No, sir, there aren't.

Q Have any members of your family, if you know, ever been visited by violence at the hands of anybody?

A No, sir.

Q I take it, Mr. Lamb, that you have heard of this case before?

A Yes, sir, I have.

Q Read about it?

A Yes, sir.

Q And you have heard radio and television comments?

A Yes, sir, I have.

Q And have you discussed it with friends and neighbors or acquaintances or anyone?

A Possibly in the early beginning of it I did, sir.

Q Other people have discussed it with you?

A I beg your pardon?

Q Other people have discussed it with you or in your presence?

A Well, within the last few weeks they haven't definitely.

Q But at the beginning, when the news first broke, is that it?

A Yes, sir.

Q And as a result of anything that you have read, heard or

discussed with anyone or heard discussed, have you formed an opinion as to the guilt or innocence of Dr. Sheppard?

A No, sir, I haven't.

Q You understand, I hope and trust, that even though he is here charged with the crime of murder in the first degree, that at the moment he is presumed to be innocent, and the fact that he is here charged raises no presumption whatever as to his guilt. You understand that?

A Yes, sir.

Q And do you understand that he is to be presumed innocent all the time until the case is all over with, and he is then to be found innocent unless a jury is convinced from the evidence beyond a reasonable doubt that he is guilty? Do you understand that?

A Yes, sir.

Q That presumption of innocence stays with him.

And do you understand, too, that it is the function of a jury to weigh the evidence and decide whether Sam Sheppard is guilty or innocent, and that the Judge, the Prosecutor, the defense, there is no one in this world who can control the judgment of a jury on that question, they are the sole judges of the facts; do you understand that?

A Yes, sir.

Q And do you understand, too, that the facts are to be the facts that come from that witness stand where you now sit and

no others?

A Yes, sir.

Q And the instructions as to the law are to come from the Court to the jury?

A Yes.

Q And do you understand that without regard to who produces that evidence, whether it be a person of high station or common laborer, that the testimony is to be weighed and evaluated on the same basis exactly at the outset, without regard to who it comes from?

1 A Yes, sir.

Q That there is no difference whatever between witnesses at the outset. There is only one test, and that test is to go to all testimony: What is the truth? That is the real test.

Both sides of this trial table are asking one thing here, and one only, and they are entitled to that, and that is a fair and impartial jury. Do you believe that on the basis of what you know and do not know now, that you could disregard everything that is in the past and be guided here solely on the evidence and the instructions of the Court as to the law and give to Sam Sheppard an absolutely fair trial?

A Yes, sir, I do.

Q Have you since the 4th day of July of this year received any communication from anybody by any means on any matter that might be directed toward this case?

A Yes, I have.

Q What did you receive?

A It was that two-page letter. ✓

Q When did you receive it?

A I think it was the Saturday before last, about two weeks ago.

Q That's the Saturday before you came here?

A I think it was.

Q And you received it by mail, I take it?

A Yes.

Q Have you got it with you?

A No, sir, I don't. I tore it up.

Q Outside of the address on the envelope, I am wondering if you would look at Exhibits A-19, 20 and 21, and I will ask you to just look at those and see if you can tell if those are the same as what you received?

A Yes, sir, it is.

Q And you say you tore it up?

A Yes, sir, I did.

Q Did you read it?

A No, I didn't care to read it. I opened it up and saw what it was, and I noticed an article in the paper, I think it was in the Plain Dealer, that said that there were some of those letters sent out to prospective jurors. ✓

Q And do you know who sent you that letter?

A The only thing I remember is that there was a return address

from Florida, but I haven't the slightest idea.

Q Have you entertained any idea at all that the Sheppard family or any of their friends had anything to do with it?

A No, sir, I haven't.

Q The Court will say to you that we know who sent it to you, that the Sheppard family and their friends had absolutely nothing to do with it, not connected with it in any manner.

Would the fact that you received that communication have any influence upon you or affect your judgment at all?

A No, sir, it wouldn't.

THE COURT: Before the State gets to questioning Mr. Lamb, perhaps we could have a few minutes' recess at this point. And will you come back to the chair after the recess, please, and will you, ladies and gentlemen, be careful not to discuss this matter at all in the recess?

We will have a few minutes' recess.

(Recess taken.)

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(After recess.)

THE COURT: Mr. Lamb, I overlooked asking you one question that I intended to ask you.

I would like to know if you have any objection to capital punishment, in a proper case? ✓

MR. CORRIGAN: Objection.

THE COURT: Overruled.

PROS. JUROR LAMB: No, your Honor.

THE COURT: All right.

Mr. Danaceau. That gentleman is Mr. Danaceau, assistant County prosecuting attorney. He would like to put a few questions.

EXAMINATION OF PROS. JUROR WILLIAM C. LAMB

By Mr. Danaceau:

Q Mr. Lamb, I believe you said that you have for the past two years been construction superintendent for the Brookpark Construction Company?

A That's right, sir.

Q Is that a corporation or some individual that you work for?

A Oh, I presume you'd call it a corporation. It is three companies. Actually, it is three companies, you might say incorporated in one as the American Construction Company. It is the Brookpark Construction, Loesch & Green, and the American Trenching Company. Just recently they have taken

over the name of American Construction, but we still work as three separate companies, actually.

Q And what did you do prior to your employment as construction superintendent?

A I was a foreman for the same company.

Q And for how long?

A A year and a half, I would say.

Q Do I take it, then, that you have been there for three and a half years?

A That's right.

Q And what did you do before that?

A I did house work as a carpenter for a few years, I don't know, four or five or six years, I suppose.

Q You say that you haven't read anything lately about this case, but that you did early sometime in July?

A No. I said I might have discussed it early in July. I have read some things about it recently, yes.

Q And I believe in response to the questions of the Court, you stated that you have never expressed or formed any opinion one way or the other, of one kind or the other? <

A No, sir.

Q And anything that you might have heard would not affect you in any way whatever?

A That's right. <

Q The Court also explained to you that an indictment has been

returned charging this defendant with first degree murder, and that the indictment is not evidence, you are not to consider it as evidence at any time. Cuyahoga County has a Grand Jury, as does every County in the State, and in this case, as in all other cases, the Grand Jury does not hear the defendant or the defendant's witnesses. They hear such witnesses as are brought to it by the State of Ohio through the office of the prosecuting attorney, or any member of the Grand Jury may request some person to appear as a witness.

In this case, as in all other cases, therefore, the Grand Jury heard one side. It did not hear the other, and all that an indictment is is a charge and nothing else, and it is the burden of the State of Ohio, through the office of the prosecuting attorney, to present evidence here in open court, and if that evidence produced in open court convinces the jury beyond a reasonable doubt of the guilt of this defendant, then the jury should return a verdict of guilty.

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You understand that?

A Yes, sir.

Q And, if, on the other hand, it fails to prove his guilt beyond a reasonable doubt, then it is the duty of the jury to return a verdict of not guilty.

A Yes.

Q You have to answer up.

A Yes.

Q In either event, you will follow that rule, will you not?

A Yes, sir.

Q Nothing that has appeared in the newspapers, or anything that has been said by way of gossip, or in any other way, are you to consider.

A No, sir.

Q In fact, you must consider only the testimony that is presented under oath on the witness stand and nothing else. Do you understand that, sir?

A Yes, sir.

Q And what you may have read or heard outside, or what you may hear even in this courtroom by the lawyers, for example, on either side of the table, is not to be considered as evidence. You understand that, sir?

A That's right.

Q If the lawyers make any comments during the course of empaneling this jury, or while this trial is being had, or if they say something in their statements, you won't regard any such statement as evidence, will you, in this case?

A No, sir.

Q If, for example, I, or Mr. Mahon, or Mr. Parrino, should say to you, "I believe this defendant is guilty," or, "I

have investigated this case and I know he is guilty," that is not evidence, and you will totally disregard any such statement, won't you?

A Yes, sir.

Q And if, on the other hand, Mr. Corrigan or Mr. Garmone or any of the other attorneys on the other side say, "I believe this defendant is not guilty," or, "I have investigated this matter and I know he is not guilty," you will pay no attention to that either, will you?

A No, sir.

Q That is not evidence and should be totally disregarded. In fact, all remarks are to be totally disregarded. You understand that, sir?

A Yes, sir, I do.

Q And the jury is to decide this case and come to its verdict solely on the basis of evidence that it receives and on nothing else except the law which Judge Blythin will give to it. You understand that, sir?

A Yes, sir.

Q And you are prepared to follow those instructions?

A Yes, sir, I am.

Q Now, the evidence that a jury gets comes from persons who appear on the witness stand and testify under oath, and in order to reach a verdict, the jury must ascertain where the truth is. Its function is to search for the truth, and

in order to get the truth, it must necessarily evaluate the testimony of the various witnesses. It has to decide which of the witnesses are telling the truth and which are not; it has to also decide, wholly apart from the truth, which of the witnesses are qualified to testify about the subject matter concerning which they testified. In other words, the jury decides what weight and credibility to give to each of the witnesses that is called here to testify, both by the State of Ohio and the defense. You understand that, sir?

A Yes, sir.

Q Now, of course, you treat all witnesses alike, no matter what their station in life is, whether they are ordinary citizens, or professional people, or police officers, or hold public office, you treat them all alike, and you don't believe anyone as against the other merely because of the title he has or the position that he holds. Do you understand that, sir?

A Yes, sir.

Q But there are guides, standards and rules which you may apply, and the Court will instruct you as to what those rules are. For example, a witness may have opportunity to know what the facts are concerning which he testifies to, and if he has those opportunities or access to the information, you may consider that as a rule, as a guide in

giving weight and credibility to his or her testimony.

You understand that, sir?

A Yes, sir.

Q A witness may have an interest in the outcome of the case. For one reason or another he may want one side of the case to win or the other side to win or one side to lose or the other side to lose. He has a personal interest in the outcome of the case, and because of that you may take that into consideration as to whether you may believe or disbelieve that witness, or what weight or credibility you may give to his or her testimony. Do you understand that, sir?

A Yes, I do.

Q The Court will instruct you that you may use your own experiences in life in order to determine whether a witness is telling the truth or not and what weight and credibility you give to his testimony, and you will apply those standards, will you not?

A Yes, sir.

Q You understand, of course, that it is the job of the jury to ascertain, to determine what the facts are, and it will be necessary for the jury to understand what the principles of law are that are applicable to the case both during the proceedings themselves and during the trial, and questions pertaining to the admissibility of evidence, or objections are made and the Court has to rule on that, you will take

those rulings from the Court?

A Yes, sir.

Q And no matter what the squabbles may be between the attorneys, you will totally disregard the remarks that the attorneys make, will you not, sir?

A Yes, sir.

Q But you will take the law as Judge Blythin will give it to you, if you are a member of this jury, will you not?

A Yes, sir.

Q And at the close of the case, the Court will give you the principles of law which you are to apply to the facts of the case, and you must accept those principles of law from Judge Blythin, no matter what your personal ideas may be about what the law is or ought to be, and are you prepared to do that, sir?

A Yes, sir, I am.

Q Now, generally speaking, there are two types of evidence: Evidence that is known as direct evidence and evidence that is known as circumstantial evidence. Do you understand those terms?

A Yes, sir.

Q And the Court will advise you that you may consider both types of evidence, and the Court will lay down the rules under which you are to consider both types of evidence.

Will you follow those instructions?

A Yes, sir.

Q You have no bias or prejudice in favor of one type of evidence as against the other, do you?

A No.

Q Are you in favor or against one type of evidence or the other?

A No. If it is a court ruling on circumstantial evidence, I mean that is -- that is the way --

Q You are aware, of course, of the fact that this is a case in which the defendant is charged with first degree murder. Under our law, if a jury brings in a verdict of first degree murder, it has the right to recommend mercy, in which case the death penalty would not be imposed. It also has the right, in a proper case, to bring in a verdict of guilty without recommending mercy, and if it does not recommend mercy, the penalty is death, and it will be the duty of the Court to impose that penalty if a jury returns that type of verdict.

Now, knowing that, sir, could you, in a proper case, properly proven, join with your fellow-jurors in returning a verdict of guilty?

A Yes, sir, I could.

Q Knowing that the consequences of that verdict will be death?

A Yes, sir.

Q You realize the seriousness of this type of a case?

A Yes, sir, I do.

Q And you realize the seriousness of the responsibility that all of us have and that you, as a juror, will have in this type of a case?

A Yes, sir.

Q And you are prepared, are you, to assume that responsibility?

A Yes, sir.

Q And to decide this case fairly and squarely?

A Yes, sir.

Q And let the chips fall where they may?

A That's right.

Q And without bias or prejudice of any kind, sir?

A Yes, sir.

Q And without sympathy for the defendant or for members of his family?

A That's right.

MR. DANACEAU: We pass for cause.

THE COURT: That is Mr. William J.

Corrigan of the defense. He would like to put some questions.

EXAMINATION OF PROS. JUROR WILLIAM C. LAMB

By Mr. Corrigan:

Q Mr. Lamb, this is Sam Sheppard, the man that is on trial. This is Mr. Petersilge, Mr. Garmone, and my son, and we have

the obligation of defending this man who is on trial for his life, and for that reason I want to ask you some questions touching upon your qualifications as a juror here and whether we wish to retain you as a juror in this case. That is clear?

A Yes, sir.

Q Were you born here in Cleveland, Mr. Lamb?

A No, sir. I was born in Philadelphia.

Q And how long have you been in Cleveland?

A Approximately six years as a resident here.

Q And when you were in Philadelphia, what was your business?

A Well, when I graduated from high school I went into the service from there.

Q And after that?

A Then I took up residency in Cleveland.

Q Took up what?

A Residency in Cleveland.

Q And followed the trade of carpentry?

A Yes, sir.

Q And you are a carpenter?

A I am a carpenter by trade, sir, yes, sir.

Q Now, the American Construction Company, for whom you are now superintendent, where is that located?

A At 4100 Brookpark Road, Cleveland.

Q And who owns it?

A Well, there are probably four owners. Mr. Green -- two Mr. Greens and Mr. Lewis and Mr. Clark, I believe.

Q And do you do public construction such as sewers and sidewalks and schoolhouses?

A Our American Construction Company does it. We at Brookpark -- our end of it is asphalt and general construction, commercial construction.

Q And you bid on work in various municipalities?

A Yes, sir.

Q Has your company done any work for the city of Bay Village, that you know of?

A Not to my knowledge.

Q You are not very far away from Bay Village, either your residence or your business, is that correct?

A That's right.

Q A couple of miles?

A I'd say 15, 20 miles, I presume.

Q Well, Brookpark and Parma -- you wouldn't be 15 or 20 miles, would you, from Bay Village?

A Well, I presume it is at least half an hour's ride.

THE COURT: It is quite a ways.

I would say it is 10 to 12 miles.

PROS. JUROR LAMB: It is near State Road.

THE COURT: He is on the easterly end -- not the easterly end, but he is easterly in

Parma.

PROS. JUROR LAMB: We are just up a few doors from State Road.

THE COURT: Sure.

122 MR. CORRIGAN: I didn't think it was that far from 'downtown.

THE COURT: It is quite a distance.

PROS. JUROR LAMB: It is 12, 13 miles from town.

THE COURT: He lives close to where I live and I am exactly 10 miles from the Public Square, and I would say it would be about the same distance across over to the lake that way.

MR. CORRIGAN: Well, all right. I am kind of mixed up in my geography, I guess.

Q Do you know whether your company has submitted bids to that City of Bay?

A No, sir, I don't.

Q You do not know?

A No, sir.

Q Do you, by chance, know the Mayor of the City of Bay, Mr. J. Spencer Houk?

A No, sir, I don't.

Q Are you acquainted with any of the officials of that city?

A No, sir, I am not.

Q Mr. Gershom Barber, Mr. Lester Hunt are councilmen.

A Never heard of them.

Q Mr. Weigandt, who is the Solicitor.

A No, sir.

Q Don't know them at all. Now, during July and continuously since that time there has been, as you know, a great deal of publicity about Dr. Sam Sheppard.

A That's right.

Q And it is continuing in unceasing tempo right down to the present time. You know that, don't you?

A That's right.

Q And will continue through this trial. Do you understand that there has come to this courtroom and to this Courthouse not only the outstanding reporters of the Cleveland papers, but a galaxy of stars of various papers throughout the United States? You know that, don't you?

A Yes, sir, I do.

Q You have seen such names as Dorothy Kilgallen and Tully, Lotto and Bob Considine; you are familiar with those names?

A I have heard them all, sir.

Q And Davis and Theo Wilson. You have heard all those names around this Courthouse and know they are here?

A I do. I haven't heard the names -- I mean I know of a couple of the names that really stick in my mind, but --

Q Was your picture taken when you came into the courtroom as

you came down the hall? ✓

A Just now.

Q A little while ago?

A You mean on my way in? ✓

Q Yes.

A In the hall it was, yes. ✓

Q In the hall? ✓

A Yes.

Q You noticed a number of newspaper photographers in the hall?

A I think at that time there were only two or three men there, if I am not mistaken, but I wasn't looking to see. ✓

Q Well, you noticed that everybody that sits on this jury, that their picture gets in the paper? Did you notice that?

A Yes, sir. ✓

Q And yourself, probably, -- yours probably will, too. Of course, we have no control over that, you recognize that, don't you, Mr. Lamb, that that is beyond the control of Sam Sheppard?

A Yes, sir.

Q Does that affect you in any way?

A No, sir, it doesn't.

Q It does not. Now, did you discuss the matter when it appeared in the paper with anybody, with men that you work with, or with your wife, or with your friends, or in any gatherings, did you hear this matter discussed or did you

discuss it?

A I discussed it in the beginning, as I say, when it first came out in the papers. ✓

Q Who did you discuss it with, Mr. Lamb?

A I presume my wife. I mean I just can't recall. It's been quite a few months ago now. ✓

Q You, yourself, did you talk to anybody that claimed to know something about the facts in the case?

A No, sir, I didn't.

Q Is your entire information that you had, that you discussed perhaps with your wife -- was that obtained from the newspapers?

A Yes, sir.

Q Do you have a newspaper delivered to your home?

A Yes, sir, we do. We get the Press and the Plain Dealer. ✓

Q In reading about this matter did you read editorials that were printed by the Cleveland Press, that were headed "Quiz the Top Suspect," meaning Sam Sheppard? "Bring him in. Give him the third degree." And editorials along that line? Did you read those? ✓

A No, sir, not specifically those. I mean I wasn't really that much interested in it.

Q Well, they were on the front page in rather bold type, and if you read them, you would probably remember them. You say you didn't read them?

A I can't remember reading them specifically. I just can't recall back that far, I mean in this particular case.

Q All right. Will you say now that as far as you are concerned that if you did read them -- and you don't know whether you did read them or not -- but if something calls them back to your mind, will you disregard them and determine -- give your judgment only on what you hear now, not what some newspaper says about it?

A I most certainly will.

Q Now, in the matter that you read in the papers, did you get the information that Marilyn Sheppard was murdered in her bed, and that she was murdered by a great number of blows that were reined upon her head?

A Yes, sir.

Q You know that?

A Yes, sir.

Q Now, keeping that in mind, and that rather repulsive type of murder, and sitting here in this courtroom to possibly be a judge in this case, and knowing that Dr. Sam Sheppard has been indicted by the Grand Jury and he now sits here with that charge of first degree murder, in the prisoner's dock, does that fact -- do those facts at this time raise in your mind any prejudice against him?

A No, sir, it doesn't.

Q And do you adhere to the law, or do you believe in the law --

some men in this country don't believe in our law, you know that, don't you?

A Yes. I most certainly do.

Q And I want to ask you if you believe in this law that is the law of the nation and the State of Ohio, that every person, even though they are indicted, even though they are charged with crime, even though they are forced to defend themselves, are presumed to be innocent until the prosecution proves their guilt to you by evidence beyond a reasonable doubt? Do you believe in that law?

123 A Yes, sir, I do.

Q And you will adhere to it?

A Yes, sir.

Q Now, we will have a conflict in evidence here. The jury under our law is the sole judge of the facts, nobody can interfere with the judgment of the jury on the facts, that is, as to what happened, how it happened, who says it happened, the place it happened, the circumstances under which it happened, those are all facts. You understand that?

A Yes, sir.

Q And you are the sole judge of those facts. The law that guides you in applying those facts is deposited in the Court, Judge Blythin, and he will tell you, for instance, what first degree murder is under the law, what second degree murder is, what manslaughter is; he will tell you

what that is and how it is defined by law, and that you must accept from him that definition and those rules.

A Yes, sir.

Q Are you prepared to follow the Judge -- the charge of law as the Court will give it to you?

A Yes, sir.

Q You will not substitute any ideas of your own as to what the law should be?

A No, sir, I won't.

Q Now, as I say, we have a conflict -- we may have a conflict between these facts. Some people may testify for the prosecution that the facts were so, while we may bring evidence contradicting those facts or raising some question about them. We expect that some of this evidence will be produced by police officers, and I ask you this question:

If you have a conflict of facts, if police officers testify on one hand and we have ordinary citizens testify on the other hand as to a certain happening or fact, would you give more credit to the testimony of the police officer than you would to the testimony of an ordinary citizen solely because they are police officers?

A No, sir.

Q You would not. You would weigh them --

A Equally.

Q And that would also be true, Mr. Lamb, or would it also be

true, Mr. Lamb, as to the testimony of people from the Coroner's office or the Coroner of the County, who is a doctor, and doctors that he may bring here, and we will bring doctors and they will testify on the side of Dr. Sam Sheppard, and if it is necessary he will testify himself, he is a doctor -- now, would you give more weight to what the doctors from the Coroner's office or hired by the Coroner would say about this case, or hired by the prosecution would say about this case than you would give to our doctors solely because they come here as representatives of the State?

A No, sir, I wouldn't.

Q You would not. Now, if you are accepted as a juror in this case will you make up your own mind about the facts?

A Yes, sir.

Q You won't let anybody make it up for you?

A No, sir.

Q And if you are accepted as a juror on this case, will you state that you will not allow anybody to talk to you about the case?

A Yes, sir.

Q That you will not be influenced by anybody?

A Yes, sir.

Q And that you will not talk to anybody about the case?

A Yes, sir.

Q Will you state to me, as attorney for Sam Sheppard, that if you are accepted as a juror on this case that you will base your decision wholly and solely upon what you hear in this courtroom under the rules of law?

A Yes, sir.

Q Now, there is just one other question I want to ask you, Mr. Lamb,--well, maybe two or three I want to ask.

The indictment charges that Sam Sheppard killed his wife, Marilyn, unlawfully, purposely and of deliberate and premeditated malice. Now, you understand all those terms?

A Yes.

Q Unlawfully, purposely, deliberately and of deliberate and premeditated malice.

Now, the elements are that he killed her, and that he did that unlawfully, purposely and of deliberate and premeditated malice.

Now, you understand all those terms?

A Yes, sir.

Q That is the way first degree murder is charged, and that charge was first degree murder, and a verdict of guilty of first degree murder carries with it a penalty of death unless the jury recommends mercy. You understand that?

A Yes, sir.

Q Now, if the Court charges you that it is necessary upon the part of the State to prove each one of those things that

make up the crime of first degree murder before they are entitled to a verdict and by evidence beyond a reasonable doubt, that the proof of one or two or part of the things are not sufficient, do you subscribe to that law?

A Yes, sir.

Q Now, in this charge of first degree murder in this indictment that is brought here, the construction of the law is such that includes other crimes besides first degree murder. It includes the crime of second degree murder, it includes the crime of manslaughter, it includes the crime of assault and battery and assault, and just as in first degree murder, each one of those crimes have certain elements that must be proven before a verdict of guilty can be returned by a jury, if they follow the law.

Will you require the State of Ohio, before you return a verdict of any degree of crime here, to prove by evidence beyond a reasonable doubt that Sam Sheppard did it?

A Yes, sir.

Q Now, we expect the evidence to show -- by the way, in reading these newspapers did you read of Susan Hayes?

A Yes, sir.

Q Did you see her picture in the paper?

A I believe I did.

Q Did you read in the newspaper that she had stated to a newspaper reporter that she had certain intimate relations with

Sam Sheppard, and he later reported that, and it was broadcast through the city in the newspapers?

A I presume I did, yes. ✓

Q Would that fact prejudice you now against Sam Sheppard?

A No, sir, it wouldn't.

Q Now, we expect that the State of Ohio will produce here or attempt to produce here some circumstantial evidence, and there is a rule laid down in our law as to how a conviction shall be returned upon circumstantial evidence, and if the Court charges you that that rule is along this line:

When reliance for conviction is placed on circumstantial evidence, the facts and the circumstances upon which the theory of guilt is placed must be shown beyond a reasonable doubt, and when all these facts and circumstances are taken together and considered, the circumstances surrounding Sam Sheppard and the matters that he brings in here, and they are all taken together, they must be irreconcilable with his claim of innocence and must admit of no other supposition except his guilt -- if the Court says that is the law and charges you that way, is that the way you will apply circumstantial evidence?

A Yes, sir.

Q Now, will you, in returning your verdict, in any way be swayed by public opinion or by what people may think of your

verdict, or what some individual may think of your verdict?

A No, sir, I should say not.

Q Now, I have asked you quite a number of questions, Mr. Lamb, and solely because I think it is my duty to find out what your mental reactions are on these matters. Do you know of anything that you haven't been asked that arises in your own mind or did arise in your own mind before you came to this courtroom, or since you have come to the courtroom, that would cause you to feel that you couldn't be a fair and impartial juror, that something might interfere with it?

A Nothing would interfere, no.

Q What?

A No.

Q Nothing that occurs to you?

A No, sir.

Q You realize this is a young man, don't you?

A Yes, sir.

Q Do you think that you would be the same kind of a juror that you would want you, yourself, to have if you were on trial?

A Yes, sir, I do. ✓

Q The same kind of a juror that you would want your little boy to have when he grows up if he gets into some difficulty, do you feel that you are that way?

A Yes, sir. ✓

Q That kind of a man?

A Yes, sir, I do. ✓

MR. CORRIGAN: Pass for cause.

THE COURT: The next peremptory is
with the State, gentlemen.

MR. MAHON: If your Honor please,
the State is satisfied with the jury as now
constituted.

THE COURT: Defense.

We will be at ease a moment, ladies and
gentlemen, while counsel have a consultation, which
is perfectly proper and quite usual.

MR. PETERSILGE: Your Honor, the defense
requests that you excuse No. 6, Mr. Brown. ✓

(Thereupon Prospective Juror Fred Brown
was excused.)

THE COURT: What about Virginia Lee
Sinclair? I do not have any record of having
excused her.

MR. GARMONE: She was excused, your
Honor.

THE COURT: All right. Which one
have you got? We have now Harold F. Plagens. No. 65.
We excused Virginia Lee Sinclair.

MR. CORRIGAN: She is in Mexico City.

Q That kind of a man?

A Yes, sir, I do. ✓

MR. CORRIGAN: Pass for cause.

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with the State, gentlemen.

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MR. CORRIGAN: She is in Mexico City.

THE COURT: Sir?

MR. CORRIGAN: That is the lady that
is in Mexico City.

THE COURT: Oh, yes. We could hardly
do anything else, could we?

- - -

Thereupon HAROLD F. PLAGENS, being first
duly sworn, was examined and testified as follows:

EXAMINATION OF PROS. JUROR HAROLD F. PLAGENS

By the Court:

Q. Your name is Harold F. Plagens?

A That's right.

Q And you live at 564 Hemlock Drive in Euclid?

A Right, sir.

Q And how long have you lived there?

A Two years.

Q And did you live at 14002 Beaumont Street in East Cleveland
before that?

A That's right, sir, for eight years.

Q Are you a married man, Mr. Plagens?

A Yes, sir.

THE COURT: Sir?

MR. CORRIGAN: That is the lady that
is in Mexico City.

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Q And did you live at 14002 Beaumont Street in East Cleveland
before that?

A That's right, sir, for eight years.

Q Are you a married man, Mr. Plagens?

A Yes, sir.

Q And have you a family?

A No children.

Q Just yourself and wife?

A Right.

Q And is there anyone else making up the household other than yourself and wife?

A No. The wife and I.

Q Just the two of you?

A That's right.

Q Is your wife employed?

A Yes. Part time.

Q With whom?

A Picker X-ray.

Q What does she do? Clerical work?

A Yes. She is secretary to the--I guess you'd call him president of the company.

Q You say you live there about two years?

A That's right.

Q How long did you live on Beaumont in East Cleveland?

A Eight years.

Q What is your occupation, please?

A I am a salesman.

Q What do you sell when the selling is good?

A Wholesale plumbing and heating.

Q And who are you employed by?

A Crane Company.

Q How long have you been in that business?

A Nine years.

Q Do you travel around the country, or is your service pretty much local?

A Yes. I have a territory on the East Side of Cleveland.

Q And you were here, I take it, a week ago last Monday morning?

A Yes.

Q And you heard these good people presented. Will you tell us if you know any of those people?

A You mean prior to the introduction?

Q Do you know them personally?

A Oh, no, no, I don't. See --

Q I am assuming from what you suggest that all you know is you have seen of their pictures, and so forth, and their names in the papers, is that right?

A That's right, sir.

Q But you don't know any of them personally?

A No.

Q Do you know the County prosecuting attorney, Mr. Frank T. Cullitan, or any member of his staff?

A No, I don't.

Q Or the Sheriff or any member of his staff?

A No, sir.

Q Or Dr. Gerber, the Coroner, or any member of his staff?

A No, I don't believe so.

Q When I mention family now I would like to include your wife's and your own, if I may -- are there any members of your family who are members of a police department or any law-enforcing agency, as far as you know?

A Well, my brother-in-law is a Parma policeman.

125 Q What is his name?

A Charles O'Connor.

Q And how long, if you know, has he been a Parma policeman?

A I believe it's been about two years.

Q How close are you? How much do you associate together?

A Well, I don't see him too often. Of course, I live way east, and I'd say probably five, six times a year I see them. We don't visit too often.

Q Do you folks visit back and forth?

A No. That's what I say. That's the only time I do see him occasionally during the summer on our way out to the lake, or something like that.

Q Have you seen him since the 4th of July of this year, since this Sheppard matter happened?

A Oh, yes.

Q Would the fact that you are related by marriage to him have any bearing at all upon your judgment in this case?

A No, I don't believe so; not that I know of.

Q Do you know?

A No, it wouldn't have any bearing at all.

Q All right. We will come to him later. Have you or any members of your family ever been visited by violence at the hands of any person, if you know?

A No.

Q I take it that you have heard of this Sheppard case before?

A Yes.

Q By what means?

A Well, I first read of it in the Press.

Q newspapers?

A Well, newspapers. I don't know whether it was the Sunday -- I can't remember when -- I don't know whether it was the Sunday paper or the Monday paper. I believe it was the Press.

Q But some newspaper?

A Newspaper, that's right, yes.

Q And have you heard radio or television comments?

A Well, perhaps on television. I don't listen to the radio very often. I don't recall what it was on TV, I imagine just a news program of some sort.

Q Have you discussed the matter with anyone?

A Well, the wife and I, of course, talked about it, naturally.

Q Have you discussed it with other people outside of your home?

A Well, I wouldn't -- perhaps in our home. I mean folks that

came over, I'm sure it was brought up sometime or another.

Q Have you discussed it with your brother-in-law, or whatever his relationship is by marriage, the Parma police officer, Mr. O'Connor?

A No, I don't think I have. Possibly because -- no, I don't think I did.

Q You don't recall?

A No, I don't recall talking to him specifically about that.

Q As a result of what you have seen or heard or discussed about the matter, have you formed any opinion at all as to the guilt or innocence of Sam Sheppard?

A No, I can't say that I have. The reason probably was rather confused, as I think anyone might be, reading it in the newspapers, you don't always get --

Q You mean to say you are confused?

A I don't say I would get a true picture by just reading the paper, and I surely couldn't know for sure one way or the other.

Q You are confused enough not to be able to form an opinion, is that it?

A That's correct.

Q Do you have any objection in a proper case to capital punishment?

A Yes, I do.

Q And how long have you entertained that objection?

A Well, of course, the most recent time -- two years ago
I was examined for jury duty and I stated then that I was
against capital punishment, two years ago. Of course, I'd
say prior to that practically as long as I can recall.

Q And you are still opposed to capital punishment?

A That's right, yes, sir.

MR. MAHON: Challenge for cause,
your Honor.

THE COURT: All right. You will
be excused.

(Thereupon Prospective Juror Harold F.
Plagens was excused.)

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Thereupon HENRY C. ROMER, being first duly sworn, was examined and testified as follows:

EXAMINATION OF PROS. JUROR HENRY C. ROMER

By the Court:

Q Is your name Henry C. Romer?

A Romer.

Q And you live at 1261 Granger Road in Lakewood?

A Yes, sir.

Q How long have you lived on Granger Road, Mr. Romer?

A Since November the 5th, 1950.

Q And where just generally did you live before that?

A Massillon, Ohio.

Q Was 1950 the first time you have lived in Cuyahoga County?

A That's right.

Q Are you a married man?

A Yes, sir.

Q What does your household consist of, please?

A Just my wife and I at the present. My daughters are married.

Q You have a married daughter?

A Three.

Q Three. Goodness. And do they -- do any of them live in Cuyahoga County?

A No, sir.

Q Are all of you pretty much strangers to Cuyahoga County

other than your residence here for the last four years?

A That's right. I have been transferred up here.

Q Is your wife employed at all?

A No, sir.

Q And what is your occupation or profession that transferred you to Cleveland?

A I am an accountant on the Nickel Plate Railroad.

Q And how long have you been employed by the Nickel Plate Railroad?

A Well, they took the Wheeling & Lake Erie over in 1949, and that's --

Q And you were with the Wheeling & Lake Erie before that?

A That's right. 37 years, all told. I am on my 37th year.

Q Putting the service together and making it continuous?

A That's right.

Q Well, I will ask you the same question, although I think I probably know the answers.

Do you know any of these gentlemen around the table who were presented a week ago last Monday morning?

A No, sir. Personally I do not.

Q Do you know the County Prosecutor, Mr. Frank T. Cullitan, or any member of his staff?

A No, sir.

Q Or the Sheriff, Mr. Sweeney, or any member of his staff?

A No, sir.

Q Or the Coroner, Dr. Gerber, or any member of his staff?

A No, sir.

Q Do you have any members of your family -- and by family I include your wife's, as well, if I may -- do you have any members of your family who are members of a police department or any law-enforcing agency anywhere?

126 A No, sir.

Q I take it that you have heard of this Sheppard matter? ✓

A Yes, I have.

Q By what means did it come to your attention? ✓

A Through the paper.

Q Radio?

A Radio and the paper, both, and televsion. ✓

Q And have you discussed it with different people at different times?

A No. Very seldom. I might as well make it short. I am opposed to capital punishment. ✓

Q How long have you been opposed to capital punishment?

A Well, right along. I always was opposed to it.

Q And you are still opposed to it?

A Yes, sir.

MR. MAHON: Challenge for cause.

THE COURT: You will be excused,

Mr. Romer. Thank you very much.

(Prospective Juror Henry C. Romer was excused.)

Thereupon WILBERT S. JUNGLAS, being first
duly sworn, was examined and testified as follows:

EXAMINATION OF PROS. JUROR WILBERT S. JUNGLAS

By the Court:

Q Your name is Wilbert S. Junglas?

A That's right.

Q And you live at 2408 Channing Road in University Heights?

A That's right?

Q And how long have you lived on Channing Road, Mr. Junglas?

A Approximately 14 years.

Q Are you a married man?

A Yes, sir, I am.

Q Do you have children?

A I have two children.

Q How old are the children?

A The boy will be 21 and the girl 16.

Q Do they both live in the home with you?

A They do, yes.

Q And are there any other persons in your household other
than yourself and wife and two children?

A There are none.

Q And what is your occupation or profession, please?

A I am vice-president of Sunset Memorial Park. A cemetery.

Q That is on the West Side?

A That's right.

Q What municipality is Sunset in?

A It is in North Olmsted and Olmsted Township.

Q And how long have you been in that position?

A I have been with the company since 1937, and I have been an officer of the company for 10 years.

Q I take it that you were here a week ago last Monday morning and heard all these people being presented who are around this table. Do you know any of them?

A No, not personally. Just from having seen them.

Q What you seen about them in the paper?

A I have no personal friendships with anyone.

Q Do you know the prosecuting attorney, Mr. Frank T. Cullitan, or any member of his staff?

A Yes, I do. My sister was formerly a secretary in the prosecutor's office. She worked under Ray Miller and under Mr. Cullitan.

Q Who was that?

A My sister.

MR. MAHON: Is that Evelyn?

PROS. JUROR JUNGLAS: Evelyn, yes.

MR. CORRIGAN: Your sister?

PROS. JUROR JUNGLAS: That's right.

MR. MAHON: Her name is McIntyre
now?

PROS. JUROR JUNGLAS: That's right.

Q Do I understand that she is still employed with the
prosecutor?

A No.

MR. MAHON: No. Formerly.

PROS. JUROR JUNGLAS: Formerly. She was
formerly a secretary.

Q And how long is it since she left?

A I don't remember exactly, but it must be five or six years.

Q So she was with Mr. Cullitan during his period of office?

A That's right.

Q Would the fact that your sister was employed in the office
of the County prosecuting attorney have any bearing on your
judgment in this matter?

A Well, I'm afraid it might.

Q What was her capacity?

A Well, she originally started as a stenographer with Ray
Miller years ago, and then she worked in the secretarial
capacity, and I guess she got down to the point where she
did most anything in the stenographic or secretarial line
in the office.

Q You never had any connection with the office?

A No. I used to go into the office and visit with her, and

I met various of the prosecutors and other people in the office.

Q And you believe that that association might have some bearing on your judgment in this matter?

A Well, I believe that I might feel more kindly to the men who are in Mr. Cullitan's office.

MR. GARMONE: I ask that he be excused, your Honor.

MR. MAHON: We will consent to it.

MR. DANACEAU: We will agree.

THE COURT: It is agreed that we will relieve you of all possible embarrassment. Thank you, Mr. Junglas.

(Thereupon Prospective Juror Wilbert S. Junglas was excused.)

MR. GARMONE:

VOIR DIRE EXAMINATION OF JAMES ROGER MANNING

By the Court:

Q Your name is James Roger Manning?

A That's right.

Q You live at 3186 West 86th Street?

A That's right, your Honor.

Q How long have you lived there, Mr. Manning?

A About 13 years.

Q Are you a married man?

A Yes, sir, I am.

Q Have you a family?

A Yes, sir, I have.

Q And what does the family consist of?

A I have three boys.

Q How old are they?

A 13, 10 and 6.

Q And that is the family consisting only of yourself, your wife and three boys?

A That's right.

Q What is your trade or occupation, please?

A I am a real estate salesman.

Q Are you connected with some particular office?

A I am with the Manning-Campbell Realty Company on Lorain Avenue.

Q And where is their office?

A At 9611 Lorain Avenue.

MR. CORRIGAN: Was there another name
in that?

MR. DANACEAU: Manning-Campbell.

Q Manning-Campbell Realty Company, 9611 Lorain Avenue.

MR. CORRIGAN: Oh, your own name.

Q And I take it that you are the Manning of the firm, are you?

A No, I am not. My brother is the broker.

Q How long have you been associated with the real estate firm?

A Full time since a year ago last May. Then I had a part-time
license for about two years before that time.

Q And what else did you do before you entered the real estate
business?

A I was sales manager of Vermillion Foods in Cleveland.

MR. DANACEAU: I didn't get that name.

PROS. JUROR MANNING: It is Vermillion Foods,
just like the color vermilion.

MR. MAHON: Vermillion Foods?

PROS. JUROR MANNING: That's right, Vermillion
Foods.

Q What territory does your salesmanship cover, generally
speaking?

A We usually sell in west Cleveland, Berea, and, well, that is
our main operation is in west Cleveland. We do work in

Lakewood, Rocky River, North Olmstead, Fairview Park and Berea. We do at the present time have a couple of listings at this time in Bay Village.

MR. CORRIGAN: Have no --

PROS. JUROR MANNING: We do.

THE COURT: He said, "We have a couple of listings at this time in Bay Village."

Q Have you ever served as a juror before?

A No, I haven't.

Q Have you ever been a witness in a case in court before?

A No, I haven't.

Q I take it that you were here a week ago last Monday morning and heard these people -- heard the presentation of these people?

A Yes, I did.

Q To the group?

A Yes, I did.

Q Do you know any of them?

A No, I don't.

Q Do you know the prosecuting attorney, Mr. Cullitan, or any member of his staff?

A No, I don't.

Q Or the Sheriff or any member of his staff?

A No, I don't.

Q Or the Coroner, Dr. Gerber, or any member of his staff?

A No, I don't.

Q And I would like to ask you if any member of your family -- and by "family" I include your wife's, if I may, as well -- is a member of any police department, police officers of any kind, or any law-enforcing agency?

A No.

Q Have you, or any members of your family, been visited by violence at the hands of another person at any time, if you know?

A No.

Q I take it that you heard of this Sheppard matter before? ✓

A Yes, I have.

Q By what means? ✓

A I read about it in the paper, heard it on the radio. ✓

Q Have you discussed it with different people, too, from time to time, or have they discussed it with you? ✓

A It has been discussed at the time. I mean not so much afterwards.

Q As a result of what you read or heard or discussions you have had, whether prompted by you or someone else about the matter, have you formed any opinion as to the guilt or innocence of Sam Sheppard?

A No. You can't.

Q You can't?

A No. You can't form an opinion like that if you don't know

what's going on.

Q So you have no opinion whatever about his guilt or innocence?

A No, I haven't.

Q Do you understand that it is the function of a jury to decide the guilt or innocence of a person charged with crime, and not the function of a Judge or the prosecutors or anybody else?

A Yes, your Honor.

Q And do you understand that you are to do so upon weighing the evidence that is produced from that witness stand where you now sit and not from anything else in the world, but under the rules of law that a Court will give to the jury?

A Yes.

Q And do you understand, also, that you are to weigh evidence on the same basis exactly at the outset?

A Yes, your Honor.

Q Without regard to who gives it; that all people are alike in that witness stand?

A Yes, your Honor.

Q And that the only test, no matter what the person's position or lack of position, the only test is the test of truth. Do you understand that?

A Yes, I do, your Honor.

Q And do you understand also that the fact that a person is here charged, whether by indictment or otherwise, with a

crime, that he is presumed to be innocent, and that the indictment of him raises no presumption whatever of any guilt of anything?

A Yes, your Honor.

Q And that he is not to be found guilty until all the evidence has been heard and the jury are then convinced beyond a reasonable doubt under the rules of law that the evidence is sufficient to find him guilty of the crime charged against him?

A Yes, your Honor, I understand that.

Q And that that burden of proof is not upon the person charged, but is upon the State?

A Yes, your Honor.

Q I will ask you if you have any objection to capital punishment in a proper case?

MR. CORRIGAN: I object. ✓

THE COURT: Overruled.

A No, I haven't, sir, if the crime warrants it.

Q Yes, of course, in a proper case.

A Yes.

Q Have you since the 4th day of July of this year received any communication of any kind by any means from anyone about any matters that could possibly be directed toward the Sheppard case?

A I received that one letter, your Honor, I believe all the

jurors received. I told you about it.

Q Have you got it with you?

A No, I haven't.

Q When did you receive it?

A Wasn't that the Thursday we were called down?

Q Well, that's about the time, probably, and --

A I called you the same day I received it.

3 Q You think it is about the Thursday before you came down here?

A That's right.

Q Now, I will ask you to look at Court's Exhibits A-19, 20 and 21, and having in mind that, of course, that is not your name and address on the envelope, will you examine those and see if they are -- if you can tell whether they are like what you received?

A Yes, this is the same one, your Honor.

Q The same thing that you received?

A It is the same letter. It didn't make any sense to me.

Q Well, it doesn't to anybody else, I don't think.

Do you know who sent you that communication?

A I believe I saw in the paper --

Q But you don't know?

A No, I don't know. Pierce, or somebody like that. I don't know who it is.

Q But you saw some report of someone having sent them this?

A I saw his picture in the paper one day, a couple of days ago.

Q Have you any thought at all that the Sheppard family or any of their friends had anything whatever to do with the sending of that communication?

A No. I'm pretty sure of that from just the type of letter.

Q Well, we can say to you that we know who sent it to you, and the Sheppard family and their friends had no connection whatever with it, so we can forget it, as far as that is concerned.

Would the fact that you received that communication have any bearing at all upon your judgment in the matter?

A Not at all.

Q Not at all?

A No.

Q Have you received any other communication of any kind about the matter?

A No, I haven't, your Honor.

Q First of all, I will say to you that counsel for the State over here and counsel for the defendant over here are seeking one thing and only one here, and that is to empanel an absolutely fair and impartial jury, people who will weigh the evidence under the rules of law that will be stated, and be thoroughly just and fair in arriving at what the facts are. Do you believe that you could sit here with eleven of your fellow-jurors and do that, listen to the evidence carefully and arrive and be perfectly fair in

arriving at your decision?

A I believe I could, your Honor.

MR. MAHON: Does your Honor want
to proceed at this time?

THE COURT: Oh, it is quarter
after four. All right. I suppose you would
prefer to let it go until the morning.

Now, Mr. Manning, you are one of the group
for the moment, at least, and will you please,
ladies and gentlemen, be very careful overnight
to observe the caution which the Court has expressed
to you?

Do not discuss this case with anyone; do
not permit anyone to discuss it with you; have
no communication whatever about it. Just leave
it right where we are now, and without any
formality at all, we will be adjourned until
9:15 tomorrow morning.

- - -

(Thereupon an adjournment was taken to
9:15 o'clock a.m., October 28, 1954, at which
time the following proceedings were had):

Morning Session, October 28, 1954.

(Voir Dire Examination of James Roger Manning resumed.)

THE COURT: That gentleman is
Mr. Parrino. He is assistant county prosecuting
attorney. He would like to put a few questions
to you.

By Mr. Parrino:

Q Mr. Manning, if you will permit me to do so, I should like
to continue with some questioning in addition to those that
the Court has already asked. You appreciate, of course,
the purpose of this questioning?

A I do.

Q And to satisfy all here present, and to satisfy you, of
course, that you feel you could be a fair juror, a just
person in a case of this kind, and we don't have any desire
to search into your background for any selfish reasons of
our own. We want to determine of you, as we have determined
of these other good people, that you possess the qualifica-
tions established to serve in this case.

I think, Mr. Manning, that you told us yesterday
that you are in the real estate business at this time, is
that correct?

A That's correct.

Q And that you have been for approximately two or three years either part-time or full time?

A That's right.

Q Now, you further stated, I believe, that you -- or your place of business there had some listings in Bay Village, Ohio, is that correct?

A That's correct.

Q Now, have you worked on any of those listings, Mr. Manning?

A I haven't shown any of them, no.

Q How many salesmen are there in your office, approximately?

A Eleven.

Q And you up to this point, at least, have not taken any prospective buyers out to Bay Village to look over any of these properties, is that correct?

A No, I haven't.

Q Now, how many properties are there out in Bay Village that your company has for listing?

A We have one exclusive on Dover Road. Then we have, I believe, two or three open listings. Now, I'm not too sure because I haven't even looked at the houses.

Q Now, do you know whether or not any of those three houses -- whether or not the Sheppard family has any connection with them at all?

A I don't see how they could have. I don't know.

Q I mean, they have no interest in any of those homes, do they?

A No.

Q So far as you know?

A Not as far as I know, no.

Q And, of course, none of the Sheppard family lives in any of those homes, do they?


A No.

Q They don't own any of those homes, do they, so far as you know?

A No.

Q They have no contact or interest in any of those homes, so far as you know; is that your understanding, sir?

A That's right.

Q I believe you told us that you have three children? 

A I have.


Q And do they all attend school? I presume that they do.

A Yes, sir.


Q Do they all attend the same school?

A No.

Q What schools do they attend?

A My oldest boy goes to Trinity School. My 10-year-old boy goes to Clark School, and my youngest boy goes to Christ School. 

Q Have you ever appeared as a witness before in any case?

A No, I haven't. 

Q Have you ever appeared as a juror before in any type of case.

civil or criminal case?

A No.

Q Coming into this courtroom as a juror, from your independent knowledge, reading, and your experiences in life, I am sure that you have a fairly good understanding as to what you will be called upon to perform as a juror in this case, do you not, sir?

A Yes, sir.

Q Now, you appreciate that in a criminal case, or in any type of case, a jury or a juror holds a most important function, a duty to perform; of course you know that?

A I do, sir.

Q And as a citizen in this community, as these other good citizens here, you have been called to come into this courtroom to sit in judgment upon this defendant, is that right?

A That's right.

Q And it is certainly your desire to see to it that this defendant receives a fair and an impartial trial, of course, is it not?

A That's right.

Q And, on the other hand, I am sure that it is also your desire to see to it that the prosecution side of the table, Mr. Mahon, Mr. Danaceau and myself, representing the State of Ohio, -- do you feel that you have a desire to give to

the State of Ohio, also, equal justice, and a fair and impartial trial?

A Yes, sir. That is only fair.

Q Now, coming into this courtroom as a juror, it will be your duty, of course, to sit patiently over what will probably be a rather lengthy period of time to listen to evidence, to both sides of the issue in this case. You appreciate, of course, that there will be a conflict in the evidence in this trial. There will be opinions expressed on one side of the table that may not be shared on the other side of the table, so that as a juror and a member of the jury, you will be in a position to listen to all of the evidence as it is presented in an effort to determine exactly what the facts are in this trial. Will you do that, please?

A Yes, sir.

Q And listening carefully, you will give weight to those facts that you think to be pertinent and significant, and you will not give weight to those facts which you do not think to be pertinent and significant in this trial, is that correct?

A That's correct.

Q Now, after all of the evidence has been completed -- I might say this to you before I come to that:

You might be curious to know the manner in which these proceedings will continue after this moment.

The first order of business, as you can now understand,

of course, is the empaneling of a jury.

Now, after we have completed this episode here, the jury will rise and will be sworn.

Now, after that has been done, then we will make to the jury -- that is to say, our side of the table and Mr. Corrigan's side of the table, will make what is known as an opening statement.

Now, what is said in that opening statement is, of course, not evidence. What the lawyers say to you in opening statement is merely a brief resume of what we expect to show, and of what the defense expects to show, and Judge Blythin, when he states to you that that is not evidence, will you follow his instructions in that regard?

A Yes, sir.

Q Now, after both sides have made their opening statement, then the State of Ohio will present its case, then the defense will present its case, then both sides will present any rebuttal evidence, if they feel that such is necessary.

After that has been completed then Judge Blythin will instruct this jury as to what is the law that applies in this case.

Now, after that has been done, then the case is in the hands of the jury. You have heard the facts, you know the law as Judge Blythin gives it to you, then you will be endowed

with a solemn duty, an important function at arriving at a just verdict in this case. You understand all of that, of course?

A I do, sir.

Q Now, Judge Blythin, certainly, with his vast experience in the law, will state for you in great detail all of the rules of law that apply in this case, and as a juror and as a member of the jury, it will be your important duty to take that law specifically without any reservations, as being the law that applies in this case. Will you do that, please?

A Yes.

Q Now, being involved in the business world, as you are, you undoubtedly have some understanding as to what the law is in some fields. In civil law, I am sure that you have some understanding what the law is that pertains to your business as a real estate salesman, and it is quite probable, though, that you do not have any specific function as to what the law is in a case of first degree murder. That is quite true, is it not, Mr. Manning?

A Yes, that is true.

Q So that in this case it will be very important for you to take the law as Judge Blythin gives it to you, and will you do that?

A I will, sir.

Q Now, in all cases, we, as lawyers, say that Judge Blythin will be the Judge of the law, but the jury is the judge of the facts. In other words, you as a jury will determine what the facts are. What I say the facts are is not of importance to you as a juror. What defense counsel say the facts are is not especially important to you as a juror. Jurors will determine what the facts are for themselves. In other words, I, defense counsel, nor Judge Blythin, himself, can express an opinion to you as to what the facts are. You understand that?

A I understand that, sir.

Q You will determine what the facts are for yourself strictly and solely from that which you hear on the witness stand, from the exhibits that may be offered, from any instruments that may be offered, pictures, objects of various kinds that may be offered by both sides; all of this constitutes the facts or the evidence in the case, and from that the jury will determine exactly what the truth is in this case. You understand that?

A I understand that.

Q You understand further, Mr. Manning, that in any field of life in which we are engaged, in any experiences that we have, that as a person you will judge people and size them up; especially you as a salesman, pretty much that is your business?

A That is right.

Q When you see a person you can determine pretty much first-hand as to what your impressions are as to that person, is that not correct?

A That is correct.

Q So as a person testifies in the witness stand for both sides in this case, as you sit here as a juror, as they testify you will be able to gain some impression as to the truthfulness of what that person states from the demeanor of that person on the witness stand, as to how he acts, as to whether he be sincere, as to whether he be not sincere, as to whether he is forthright, as to whether he may be sluggish or backward in what he says. From these things you, as a juror, may gain certain impressions as to the credibility or truthfulness of that person that speaks. Do you understand that?

A I understand that, sir.

Q Now, if Judge Blythin states to you that that is a way or a standard, the demeanor of the witness is a standard that you as a juror may use in judging the testimony of any witness, will you take the Judge's instructions in that regard and apply them as the witnesses testify in this case? Will you do that, please?

A Yes, sir.

Q Now, Judge Blythin, I am sure, will state to you that there

are several different standards that a jury may use in judging the quality or the weight or the value that they will give to all witnesses in this case.

Now, should Judge Blythin state to you that in judging the weight or value that you will apply to a particular or all witnesses, you may take into consideration the reasonableness of what that person testifies to, the reasonableness of the story that he relates on the witness stand, will you follow his instructions in that regard?

A Yes, sir.

Q And if, as a juror, you and these other people here already in the jury box who may be chosen as jurors -- if you listen to the story of a particular witness and you feel that what that person is saying does not strike you with a reasonable mind, does not strike you as being a reasonable story, will you give less credit to the story of that witness, or will you give less value to it?

6 A It depends on the instructions, I believe.

Q Yes, but if Judge Blythin states to you that in judging the testimony of a witness you may take into account the reasonableness or the lack of reasonableness of what he says, will you do that?

A Yes.

Q And if he states to you that you may take into account in judging a witness' story the probability or the lack of

probability of what he says, will you follow his instructions in that regard?

A Yes, sir.

Q And when he states to you that you may also take into account the interest or the lack of interest that witnesses have in the outcome of this trial, will you take that into account, please?

A Yes, sir.

Q In other words, if there were an automobile collision where there were two persons driving along the highway, their automobiles struck, they went before a magistrate of some kind and both told their stories, you might understand that their stories might be colored to some extent to suit their purposes. It might be a little hard to believe, isn't that correct?

A Yes.

Q They might give themselves the benefit of the doubt, isn't that right?

A That's right.

Q But on the other hand, if there is some person standing there on a corner who doesn't know either one of those persons, who has no interest in the case at all, and comes before this same magistrate and he testifies, it is quite probable that the magistrate would lend a little more credence to what the disinterested person states than what

the parties to the accident might state. You understand that?

A Yes.

Q And the same rule would apply in a case of this kind, of course, so that in judging the testimony of persons who testify, you will take into account, then, the reasonableness of what they say or the unreasonableness of what they say, isn't that correct?

A That's correct.

Q Whether what they say is probable or not probable, you will take that into account, will you not?

A I will.

Q And certainly you will take into account whether or not they have an interest in the case, or whether they do not have an interest in the case, in judging and sizing-up their testimony; will you do that, please?

A Yes.

Q And as I have stated to all of these other jurors that I have had the privilege of speaking to here previously, these standards of judging the testimony of witnesses apply to the State's witnesses; you understand that?

A Yes.

Q They apply to the defense witnesses; you understand that, of course?

A Yes.

Q And they also apply to the defendant, himself; you understand that, of course?

A I understand that.

Q Now, I am sure that during the course of the trial there will be persons testifying from various walks of life. There will be professional people, there will be laymen, there will be doctors, there will be police officers, there will be the Coroner, who is a public servant, there will be various people who testify.

Now, the Court will say to you that in judging the testimony of witnesses you are not to give more value or more credibility to a particular person merely because he has a title as against one who does not have a title.

Now, you understand that?

A I understand that.

Q And should he instruct you in that regard, will you follow his instructions in that respect?

A I will, sir.

Q Now, you might have a situation where, in judging the testimony of two persons, whether they be two doctors or a police officer and a layman who testifies to the same thing, or substantially as to the same thing -- in judging and determining the weight that you will give to the testimony of these two persons who testify as to the same thing, will you take into account the opportunity that both of these

people had to observe what they are speaking about? Do I make myself clear?

A You do, sir.

Q In other words, two persons might testify as to the same point, but as a result of what you hear as a juror, and as a result of what they say, you would come to the opinion that although they are speaking about the same thing, one might be in a position to know a little more about it than the other. You understand that, of course?

A I understand that.

Q So that as a result of one being in a more advantageous position, you would be able to give more credibility to one as you might give as against the other. Isn't that correct, sir?

A That is correct.

Q So you would take into account what they say, how they say it, their position to know that about which they speak, all of these things are important in sizing-up a witness, are they not?

A Yes, they are.

Q Now, the laws in this State, Mr. Manning, are, of course, very fixed relating to capital punishment, and I know that you realize that this is certainly a very important case?

A Yes, sir.

Q It is important to the defendant, of course, and it is

important to the State of Ohio, and it is important to you as an individual as you come into this courtroom because you want to see justice done, isn't that correct?

A That's correct.

Q The laws in Ohio provide, Mr. Manning, that in a case of first-degree murder where a defendant is found guilty of that charge, that if a jury chooses not to exercise mercy or recommend mercy, that the punishment will be death in the electric chair. You know that to be the law, do you not?

A I understand that, yes.

7 Q And the question that I have to ask you is this:

Do you know of any religious beliefs that you might have, or conscientious beliefs that you might possess in your mind, where you could not serve on a jury that might involve the death penalty?

A No, sir, I have not.

Q You feel, sir, that in a proper case that is properly supported by all the facts and evidence, you could enter into a verdict of that kind, do you not?

A Yes, I do, sir.

Q In a case of this kind, Mr. Manning, as I say, there will be a rather substantial mass of evidence produced by both sides, and that evidence will consist of direct evidence, in some instances, and in some instances the evidence will

consist of circumstantial evidence, and Judge Blythin will state to you that in a criminal case, both direct and circumstantial evidence may be considered by a jury in arriving at their verdict. If he states that to you, will you follow his instructions in that regard?

A Yes, sir.

Q You do realize, of course, that circumstantial evidence, in some instances, as I believe Mr. Corrigan previously stated here in the questioning of one of the prospective jurors -- circumstantial evidence, in some instances, may be as convincing, if not more convincing, than direct evidence. Do you appreciate that?

A I do, sir.

Q Now, direct evidence is the result of what a person is able to relate as a result of what he, himself, has seen or heard or felt. That would be direct evidence.

A Yes.

Q Now, circumstantial evidence would be the reasonable inferences that may be shown from proven facts. That is a rather involved statement, and I think that there are many of us who have been practicing law for sometime that don't understand it ourselves, but I think here yesterday there was a Mr. Brown on the jury, and I gave him this brief example of what I think to be circumstantial evidence, and with your permission I will repeat it to you and perhaps

you will get a better understanding of what we are talking about.

Of course, you own an automobile, do you not, Mr. Manning?

A Yes.

Q Now, assume, if you will, please, that some night you park your car in the front of your home, and that as you are in your home you hear the loud screeching of brakes. The next thing you hear is the tremendous crash, so you rush from your home, you look outside and there you see your car. It is no longer in front of your house, it has been pushed for some distance. It has been struck by another vehicle. You see that this other vehicle has set on the ground, say, 50 or 60 feet of skid marks, and that your car is demolished and his car is demolished, and you question this fellow, and you say to him, "What happened here? How come you hit my car?"

He says, "I can't understand it. At the time that I struck your car I was only going about 20 miles per hour."

Now, would you believe that person, sir?

A No, I wouldn't, not from what you state.

Q Now, why is it that you wouldn't believe it?

A There was evidence that didn't substantiate what the outcome was or what the later statement was.

Q There would be evidence that would not substantiate his story?

A His story, that's right.

Q Now, that evidence would consist of the skid marks, isn't that correct?

A That's right.

Q The manner in which your car was moved?

A How far it was moved.

Q Yes. All of those things would certainly, as a reasonable man, indicate to you that, putting it mildly, that he was lying, isn't that correct?

A That's right.

Q Now, you, of course, were in your house watching the television, perhaps; you didn't see it, did you?

A No.

Q There were no other persons that saw it that could describe it to you, but from what you were able to see after it was all over, you could reasonably come to the conclusion that what this person states to you was not a fact, isn't that true?

A That is right.

Q That, in a general way, is what we term circumstantial evidence. You appreciate that, of course?

A I do.

Q Now, will you follow the Judge's instructions as to how

exactly you will apply direct evidence and circumstantial evidence in this case? That is all we can ask. Will you do that, please?

A I will, sir.

Q Now, Mr. Manning, have you ever been a patient, or any member of your family or any friends of yours ever been patients at the Bay View Hospital?

A No, sir.

Q Are you acquainted with anyone that is employed at the Bay View Hospital, so far as you now know?

A No.

Q Now, as a juror in this case, Mr. Manning, you know, of course, that you have a right to your own opinion when you are deliberating at the conclusion of the trial; you know that, of course?

A Yes.

Q And you know that each of the other jurors also have a right to their own opinion. You know that, of course?

A Yes.

Q Now, as you are deliberating in your jury room, you will not have any hesitation to discuss this case freely and openly with other members of the panel, will you?

A No. That is important.

Q Sure. That is one of the most important things in your deliberations, is it not?

A That is right.

Q You to give these people your ideas and for them to give you their ideas, isn't that correct?

A That's correct.

Q And, of course, you have a right to your own ideas, you know that?

A I do.

Q And that you will as a juror listen to what they have to say, and they will listen to what you have to say, and if one of them produces some bit of evidence that you may have forgotten that you think is important and reasonable and probable and logical, you will take and accept what they have to say and perhaps alter your thinking, if you think that that is a reasonable thing to do, will you not?

8 A Yes.

Q As a juror you will not stand by or sit byⁱⁿthe jury room and obstinate~~ly~~ hold to your own views without any logical reason; you won't take that position, will you, sir?

A No, sir, there is no sense in that.

Q As a member of the panel, you will freely and openly discuss the evidence in this case with a view to arriving at a common verdict in this case, will you do that, please?

A That's right, sir.

Q With a view to arriving at justice in this case, will you do that, please?

A Yes.

Q With a view to arriving at justice to the defendant and to the State, will you do that, please?

A Yes.

Q Now, certainly you know that in any case, a criminal case, especially, it is important, as we have previously discussed, to arrive at your verdict based upon law and upon fact.

Now, will you let your judgment or opinion in this case be affected in any way by prejudice for or against either side in this trial?

A No.

Q Will you let ~~any~~ bias enter into your deliberations at all?

A No.

Q And just as important, just as important, will you permit sympathy for the defendant to enter into your verdict in this case?

A No, that doesn't enter into it.

Q Sympathy for the defendant or members of his family to enter into your verdict in this case?

A No.

Q Do you take this position: That on the basis of law and on the basis of fact, without any feelings of bias, prejudices, sympathy for one side or the other, let your

deliberations be dispassionate?

A Yes, sir.

Q Fair to both sides, and let justice be done; do you take that position?

A I take that position, sir.

Q Thank you very much.

MR. PARRINO: Pass for cause.

THE COURT: That gentleman is
Mr. Garmone of defense counsel.

By Mr. Garmone:

Q Mr. Manning, you have been asked many questions by Mr. Parrino. He has covered thoroughly most of the important subject matters in an effort to qualify you as a juror in this case.

Now, I would like to ask you a few questions on some of the items that weren't touched upon.

Sam Sheppard sits in this courtroom and faces a charge of first degree murder on the basis of an indictment that was returned by the Grand Jury of this County against him. That indictment incorporates the allegations that constitute first degree murder. The Court will instruct you, Mr. Manning, that, though an indictment was returned, that you are not to create in your mind any presumption of guilt against Sam Sheppard. Now, do you believe in that theory

of the law?

A Yes, I do, sir.

Q Briefly, the facts that bring about an indictment, whether it be in this case or any other criminal case, is the prosecutor, through their witnesses, presents certain evidence. They take into the Grand Jury witnesses to testify to a certain statement of fact. It is a one-sided hearing. Sam Sheppard at no time is afforded an opportunity to tell his side of the story, nor at any time is he given the privilege to present any witnesses to tell or state his side of the issue, so it is a one-sided hearing, and for that reason, the indictment, though you may have a copy of it with you in your jury room during the course of deliberating this matter -- it should at no time be considered as evidence, and his Honor, Judge Blythin, will tell you that that is the law, and you will follow that?

A That's right.

Q Now, the allegations that are set out in the indictment, Mr. Manning, is that Sam Sheppard did unlawfully, purposely and of deliberate, premeditated malice kill his wife, Marylyn Sheppard. That is the brief statement of facts set out in the indictment, which we say constitutes the allegations and apprises this young man of the charge he must face.

Now, Judge Blythin will say to you that each and every

one of those necessary elements set out in the indictment must be proven beyond a reasonable doubt before you can conscientiously return a verdict of guilt. Will you follow those instructions by the Court?

A Yes, sir.

Q Now, in conjunction with the Judge saying that each and every necessary element or things that constitute the indictment having to be proven beyond a reasonable doubt, he will add thereto in his instructions that if the case -- or if the State fails to prove one, two or three by evidence that convinces you beyond a reasonable doubt, it would be incumbent upon you, as a juror, to return a verdict of not guilty. Will you follow those instructions?

A Yes, sir.

Q Or, in reverse, if the State proves one, two or three, and have failed to prove the fourth necessary thing or element contained in that indictment that convinces you beyond a reasonable doubt, that under those circumstances your obligation as a juror, and following the instructions of the Court, you would have to bring in a verdict of not guilty. Do you subscribe to that theory in law?

A I do, sir.

Q Now, when we talk about burden of proof, burden of proof is the degree necessary to sustain the indictment that we were just discussing. That burden of proof throughout

the entire trial rests with the State. It never shifts, never changes. The State -- it is incumbent upon them at all times to convince you beyond a reasonable doubt of this young man's guilt. His Honor, Judge Blythin, will, in his instructions, when he gives you the law that is applicable to the facts that you will hear, will tell you that that is the rule that you are to follow, and will you follow that rule?

9

A Yes, sir.

Q Now, briefly, on a subject that Mr. Parrino touched, and I think he cleared your mind as to what your activities should be, and that is facts. The Court will say to you that the only facts that you are to consider are those facts that you hear in this courtroom. Will you abide by that rule?

A Yes, sir.

Q Because you know and I know that this matter has received a great amount of notoriety by means of newspapers, radio and television, and there will be some curious people who make an effort, if you are chosen as a juror, -- it is only human nature -- to try to strike up a conversation with you, or drop a remark one way or another. That remark may be beneficial to Sam. I don't know. It may be beneficial to the State, they don't know, but should that happen during the course of the period that the facts are

being related to you for your consideration in this courtroom, you won't permit any of that to fall into your subconscious mind, and then at some later point, weave it into the statements that you hear here?

A No, sir.

Q You will take only those facts that you hear in this courtroom?

A That's correct.

Q Now, on the factual side of the picture, you, Mr. Manning, along with the fellow-jurors, are the only judge of the facts. With the authority that Judge Blythin has, he has no right to trespass on that privilege as given to you as a juror, that you have a right to interpret those facts as your conscience directs you. No one can interfere with that right, and will you act accordingly?

A Yes, sir.

Q Now, should there come a time after you have listened to all the facts attentively, after you have accepted the law applicable to the case that Judge Blythin will charge you with, and you come to an abiding conviction in your mind that the State has failed to convince you beyond a reasonable doubt of all those necessary things that they have set out in the indictment that was returned against Sam Sheppard, would you hesitate in expressing your feeling and joining in with your fellow-jurors in a verdict of not guilty in the

case of the State of Ohio versus Sam Sheppard?

A No.

Q Now, after you hear all these facts and correlate the law into the facts that Judge Blythin will give you, and you arrive at the abiding conviction in your mind that the State has failed to convince you beyond a reasonable doubt,

the Court will say that you, as a qualified juror, should not hesitate, and we won't want you to, and we don't want any of these other members to hesitate, to discuss with one another why you feel that you have arrived at that abiding conviction, and why maybe some of these other ladies and gentlemen felt or feel at that time that their interpretation of a certain element of facts or the overall factual picture in some instances does not correspond with yours, you will be willing to listen to their understanding, would you not?

A Definitely.

Q And you would also express your understanding of certain facts to them?

A That's right.

Q Now, after you have this huddle and this talk among one another, and you are still, Mr. Manning, of the opinion or, as a matter of fact, any of you are still of the opinion that the State of Ohio has failed to convince you

beyond a reasonable doubt that each and every necessary element contained in that indictment wasn't proven to your satisfaction, would you remain with the abiding conviction that Sam Sheppard is not guilty of the charge?

A If that was the case, yes.

Q You would do that?

A I would.

Q Now, on the subject of law, the guardian of that phase of the case is Judge Blythin, and will you follow only the law that he gives you and tells you that is applicable in this case?

A Yes, sir.

Q Because, after all, you are a salesman and I am a lawyer, and you know we come in contact with many people, and we sometimes get our own notions of what something should be or what something ought to be, and we may be right.

Now, you won't incorporate anything that may come to your mind what you think the law is or the law ought to be and substitute that for the judgment of Judge Blythin on the law?

A No. The law is as stated.

Q As stated by the Court?

A By the Court.

Q Now, I don't know whether you were asked if you, sometime during the course of the period that you read newspaper

items in this matter, that you expressed an opinion to anyone?

A No, I haven't done that.

Q Was there ever an opinion expressed to you?

A Yes, there have been.

Q And without telling me what the opinion is -- I don't know -- I don't want to know, and I am not entitled to know -- you won't permit that opinion to creep into your mind and become an issue in this case?

A No, sir.

Q You won't permit that opinion to be substituted into the facts that will be given to you from that witness chair, would you?

A No, sir.

Q You will stick to what you hear in this courtroom and nothing more?

A That's right.

10 Q Mr. Parrino went into the subject matter of direct and circumstantial evidence, and he distinguished between the two.

Now, on the question of circumstantial evidence, if the Court instructs you that when reliance for conviction is placed on circumstantial evidence, the facts and circumstances upon which the theory of guilt is placed must be shown beyond a reasonable doubt, and when taken together, that is, all the facts and circumstances, when they are taken

together and put into one basket, must be so convincing as to be inconsistent with the claim of innocence and admit to no other solution -- this entire statement of facts and circumstances shall admit to no other solution than the guilt of the accused, and if Judge Blythin instructs you that that is the theory of law that you are to follow that relates to the element of circumstantial evidence in this case, will you follow that theory of law?

A Yes, sir.

Q In the operation of your daily business prior to your coming down here on the 18th, had you had any business or social contact with any member of the Cleveland police department?

A Sometime ago, last January or February, I think it was, I sold a house to a policeman.

Q Can you tell me what branch of the department he was in? Was he associated with the Detective Bureau?

A I don't know, sir.

Q What was his name, do you recall?

A That is what I am thinking of.

Q It is a little hard to remember --

A I only saw him when I sold him the house just this one day.

THE COURT: Do you recall where the house was?

PROS. JUROR: MANNING: It is down on Bridge Avenue. The name is Musson.

By Mr. Garmone:

Q M-u-s-s-o-n?

A Yes.

Q You don't know whether he is with the Detective Bureau or not, do you?

A I don't know what branch of the service he is in.

Q Well, would the fact that you had this business dealing with him cause you to show any favoritism to any police officers that may be submitted for your consideration in this case?

A I don't know how it could.

Q Now, on that question would you, because a man is a member of the police department, give his testimony more consideration than you would a layman because he is a member of the police department?

A No, sir.

Q You would measure him with the same yardstick, is that right?

A That's right.

Q Now, there was some discussion here by Mr. Parrino, and properly so, about the Coroner's office, the doctors, and people, who would be in a better position to tell you what -- to testify on certain facts that will develop during the trial. Do you feel, Mr. Manning, that because a doctor is connected with the Coroner's office, that his testimony should be given more consideration than a doctor who is not associated with the Coroner's office?

A No, sir.

Q You will measure them with an equal yardstick, is that right?

A That's right.

Q Do you know any doctors that are associated with the office of the Coroner?

A No, sir.

Q Do you know Dr. Gerber?

A No, sir.

Q Dr. Adelson?

A No, sir.

Q Dr. Sunshine or Dr. Chamberlain?

A No, sir.

Q Do you know in that office a young lady whose name is Mary Cowan?

A No, sir.

Q Now, Mr. Manning, you have been asked many questions, and before I conclude with you I would like to deal on one theory of law that hasn't been touched by his Honor, Judge Blythin in his questions, and I don't think Mr. Parrino touched upon it.

Under our system of jurisprudence, the democracy that we enjoy, a man charged with a crime is presumed to be innocent. As Dr. Sheppard sits there, do you afford him that presumption of innocence at this time?

A Yes, sir.

Q Do you look upon him as an innocent man?

A Yes, I do.

Q As he sits here now at this trial table?

MR. MAHON: Objection.

Q Presumed to be innocent man as he sits here now at this trial table?

A Yes, sir.

Q And that that presumption of innocence remains with him until the State of Ohio convinces you beyond a reasonable doubt of his guilt. Do you subscribe to that theory?

A I do, sir.

11 Q Mr. Manning, as a juror in this case, you probably are going to be called upon to accept the responsibility that will not come your way again in your lifetime. You will take your place in this jury box with the other members of this panel, Mr. Lamb, Mr. Bird, Mrs. Foote, Mrs. Borke, Mr. Barrish, and Mr. Verlinger, Mr. Moravec, Mrs. Williams, Mrs. Feuchter, and Mrs. Pelsey, and you will walk into that box with an authority to judge the guilt or innocence of a fellow-citizen. In this case you will take with you a great authority, the right to destroy the life of a fellow human being. Now, I ask you to search your conscience, and do it with a fine comb so that you can satisfy everyone in this courtroom, this young man, the people that represent him,

and the representatives of the State of Ohio, to see if you can tell us any reason that would disqualify you as a juror?

A No, sir.

Q You now feel, after the examination conducted by Judge Blythin, Mr. Parrino and myself, that you can accept this responsibility and be fair and impartial to Sam Sheppard?

A Yes, sir, I can.

Q And fair and impartial to the State of Ohio?

A Yes, sir.

Q Is that right?

A (Witness nods affirmatively.)

MR. GARMONE: Thank you.

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THE COURT: The next peremptory
is with the State, gentlemen.

MR. PARRINO: If the Court please,
may we just ask another question or two of Mrs.
Genevieve Pelsey, if the Court please? Juror
No. 11, please.

Would you take the stand, please?

- - -

Thereupon GENEVIEVE A. PELSEY, being previously
duly sworn, was recalled to the stand and was
examined and testified further, as follows:

EXAMINATION OF PROS. JUROR GENEVIEVE A. PELSEY

By Mr. Parrino:

Q Mrs. Pelsey, there are one or two questions I would like to
ask you, please. Please be comfortable —

THE COURT: Let the record show
that the prospective juror now being examined, is
Genevieve A. Pelsey, Juror No. 11.

MR. PARRINO: Yes, Judge. Thank you
very much.

Q I will just be a moment with you, if I may, please.

You recall, of course, here the other day, or was it
many, many, many, many, many days ago that you were questioned --

I think that you stated at that time as the result of the way you feel that you would prefer -- or at that time, at least, you would prefer not to serve as a juror in this case. You remember that?

MR. CORRIGAN: Object to the question.

THE COURT: Well, it is not a question, it is just a basis, I take it, for a question.

Q You stated that you would prefer not to serve as a juror in this case?

A Yes.

Q And do you still feel the same way? ✓

MR. CORRIGAN: Object.

A Yes, sir.

MR. PARRINO: That is all. No further questions.

THE COURT: Any questions?

MR. GARMONE: No questions.

MR. PARRINO: At this time, if the Court please, the State of Ohio will excuse Mrs. Pelsey. Thank you very much for being so fair. ✓

PROS. JUROR PELSEY: Thank you.

(Thereupon Prospective Juror Genevieve A. Pelsey was excused.)

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Thereupon FRANK J. KOLLARITS, being first
duly sworn, was examined and testified as follows:

EXAMINATION OF PROS. JUROR FRANK J. KOLLARITS

By the Court:

Q Is your name Frank J. Kollarits?

A Kollarits.

Q K-o-l-l-a-r-i-t-s?

A That's correct.

Q And you live at 2773 East 125th Street?

A Correct.

Q Are you a married man, Mr. Kollarits?

A Yes, I am.

Q And have you a family?

A I have two boys.

Q How old are they?

A 11 and 15.

Q They are both in school?

A They are both in school. One is in high school.

Q And how long have you lived on East 125th where you now live?

A 20 years.

Q Are there any other people in your household other than
yourself and wife and two boys?

A Not in my household. I live in a two-family home.

Q Any relatives living in the other suite?

A Mother-in-law and brother-in-law.

Q What is your occupation or business?

A I am a clerk, receiving clerk.

Q Where?

A Harshaw Chemical Company.

Q Where is their place of business? Is that the Harshaw Chemical Company on 97th Street?

A The office is on 97th Street and the plant is on 1000 Harvard.

Q And where do you hold forth?

A I am down at 1000 Harvard.

Q How long have you been with the Harshaw Chemical Company?

A It will be 25 years this coming March.

Q Have you ever served as a juror before?

A No, I haven't, though I have been summoned once.

Q But you were not used?

A No, I was not used. I was down here one day and was excused.

Q And have you ever been a witness in a case in court?

A No, I haven't.

Q I take it that you were here on a week ago last Monday morning when these good people around this table were presented. Do you know any of them?

A No, I do not know any of them.

Q Do you know the County Prosecutor, Mr. Cullitan, or any member of his staff?

A No, I do not.

Q Or the Sheriff or any member of his staff?

A I don't know anybody in the Sheriff's. There was some deputies down there that worked at our plant at one time, but I don't know them personally.

Q You had no particular connection or social connection with any member of the Sheriff's office?

A That's correct, I do not.

Q And do you know the Coroner, Dr. Gerber, or any members of his staff?

A No, I don't.

Q Do you know any members of your family -- and by your family, we will include your wife's family, too, if we may -- who are members of a police department or any law-enforcing agency anywhere, if you know?

A A newpew of my wife is on the police force.

Q In Cleveland?

A In Cleveland.

Q What is his name?

A Joseph Kish.

Q K-i-s-h?

A That's correct.

Q How long has he been on the police department?

A Just recently. I would guess about a year, year and a half.

Q Do you know what division of the department he is in?

A I don't know. He works out of the -- somewhere around
Fulton Road out of the precinct there.

Q The West Side?

A That's right.

Q How close is your association with him?

A Not very close. We might see each other once or twice a
year.

Q Is he the only person that you can think of?

A He is the only one.

Q Would the fact that he is a member of the police department
of the City of Cleveland, and it happens that probably
there will be a number of policemen testify here, they will
be from the police department of the City of Cleveland --
would that have any bearing at all on your judgment, or
would it embarrass you in any manner?

A No, not whatsoever.

128 Q Have you or any members of your family ever been visited
by violence at the hands of another, if you know?

A No, not that I know of.

Q I take it that you have heard of this Sheppard case before?

A I have heard of it.

Q And I take it you read newspapers about it?

A I have read it, though I don't read the paper. I look at
the headlines and probably the front page.

Q And you have heard comments on the radio and television?

A I don't listen to the radio. I have heard it on the television. ✓

Q Have you discussed the matter with other people at any time, or other people discussed it with you?

A No, I haven't discussed it with anybody.

Q Have you ever expressed an opinion to anyone about the case?

A No, I did not.

Q Have you, as a result of anything that you have known about it or heard about it or discussed with anyone, have you formed an opinion as to the innocence or guilt of Dr. Sheppard? <

A I have not formed an opinion. <

Q I will ask you if, in a proper case,--I will withdraw that.

Have you any objections to capital punishment? ✓

MR. CORRIGAN: Objection.

THE COURT: Overruled.

MR. CORRIGAN: Exception.

A No, I have not.

Q You understand that it is the function of a jury to listen to the evidence in the case and decide the case, they are the ones and the only ones who can decide whether a person is guilty of a crime or not.

A I understand.

Q And in so doing, they are to listen to all of the testimony, and without regard to who gives it, whether he is a public

official, whether he is a professional man or a common laborer, at the outset to receive that evidence on the same basis precisely without regard to its source and weigh that evidence and put it to one test and one only as to what is true and what is not true.

A I understand.

Q You understand that?

A Yes.

Q And do you understand that it makes no difference whatever at the outset when the testimony comes, whether it comes from a public official, police officer, doctor, or a person of whatever station in life, it is to be weighed on the same basis precisely and only as to what is true and what is not true?

A Yes, I do understand.

Q And do you understand that when we come to apply the principles of law which are to be applied in a case of this kind, any criminal case, that it is the function of the Judge to state those to the jury and the duty of the jury to regard those as stated and to follow precisely those principles? Do you understand that?

A I understand that.

Q Now, the people on both sides of this table, the prosecution on this side and the defense on this side, are asking one thing, and one only, and they are entitled to that: That is

to have a perfectly fair and impartial jury who will weigh the evidence as it comes from this witness stand where you are now sitting and judge it for themselves on the basis that I have stated to you.

Do you believe that you could do that and be absolutely fair and impartial?

A I believe I could.

THE COURT: The State --

MR. DANACEAU: Would you mind asking him if he received a communication?

THE COURT: Oh, yes, indeed.

Q Since the 4th day of July of this year have you received any communication of any kind by any means from anybody that could be directed, at least, toward this case?

A I received the one letter with the two pictures in it. ✓

Q Have you got it with you?

A No. I turned it over to the police department.

Q When did you receive it?

A I don't know the exact date.

Q Roughly when?

A It was on a Thursday.

Q Would that be the Thursday before you came here?

A I believe so.

Q And have you received any other communication of any kind at any time?

A None whatsoever.

Q Now, I will ask you to be kind enough to look at Court's Exhibit A-9 and A-10. Just glance at them and see if you can tell us whether the communication that you received was the same as that.

A It is the same -- identically the same thing.

Q Do you know who sent you that?

A I can't pronounce the name. It is All-A-something.

Q Neither can anybody else, so it is all right. You saw in the paper some report as to who sent it, or did you find it from the communication itself?

A I read the heading on the envelope. I think the last name was Pierce, if I am not mistaken.

Q That is on the outside of the envelope?

A On the outside, and the address on there, Orlando, California -- or Florida.

Q Have you formed at any time any notion or idea that the Sheppard family or any of their friends had anything to do with the sending of that communication?

A No, I never did.

Q Well, the Court will say to you that we know who sent it to you, and the Sheppard family and their friends had absolutely no connection with it, so that you can completely disregard it. Would the fact that you received that communication have any bearing at all on your judgment in this matter?

A None whatsoever. I never read it. I don't know what's in it.

THE COURT: This is Mr. John Mahon,
the assistant County prosecuting attorney. He would
like to put a few questions to you.

EXAMINATION OF PROS. JUROR FRANK J. KOLLARITS

By Mr. Mahon:

Q I believe you said that you had been summoned for jury duty
but never had served?

A That's correct.

Q And how long ago was that?

A That was during the war, I believe about approximately ten
years ago.

Q But you never have actually served as a juror at any time?

A No, I never have.

Q Have you ever been a witness in any kind of a case?

A No, I never have.

Q You have read about this case, though, have you not? ✓

A I have read about it, just the front page, mostly in the
headlines is all I read. I very seldom get around to the
inside of the paper.

Q And did you read about it back around July the 5th?

A No, I didn't read about it at that time.

Q Have you ever read anything about it since you have received
your summons for jury service?

A I read slightly just the front of the paper and the headlines, and that's all.

Q You have heard something or seen something on the television, I believe you said, is that correct?

A News photos on television.

Q Have you had any discussion or has this matter been discussed in your presence at any time?

A No, it has not.

Q Well, from what you did read, what you saw on the television, did you form or express any opinions as to the guilt or innocence of this defendant?

A No. I have not formed no opinion whatsoever.

Q Have you any opinion at this time as to the guilt or innocence of this defendant?

A No, I have not.

Q Is your mind in such shape that you could enter into the trial of this case as a juror with a free, open mind and obtain all of your information right here in this courtroom?

A I have a free, open mind at the present time.

Q How?

A I says I have a free, open mind at the present time.

Q And you would be guided entirely, then, by the evidence that you would get here in this courtroom?

A Yes, I would.

Q Not be influenced in the slightest by anything that you might

have heard or read about this case outside of this courtroom?

A No, I would not be influenced.

Q You understand there will be a number of witnesses who will be called here to testify, and they will take that chair that you now occupy and tell you what they know concerning this case.

Now, there will be policemen who will testify, there will be doctors who will testify, there will be technicians who will testify, there will be public officials, and there will be the average citizen who has no title of any kind, and the jury is going to have to weigh the testimony of all of those witnesses to determine how much credit, credibility they will afford to the testimony of any witness who testifies. You understand that?

A Yes, sir.

Q That is the function of the jury, and the jury should weigh the testimony of the witnesses in the light of whether or not it is truthful testimony regardless of who gives it, whether it is a doctor or a lawyer or a public official of any kind or an average citizen, layman, the jury is to determine what is the truth from each witness individually, regardless of what title they might have. You feel that you can do that?

A I could do that.

Q And just because a police officer might testify, and he

happens to be a police officer, just because of that fact alone you certainly wouldn't give him any greater or less credit to his testimony, would you?

A No, I would not.

Q You would weigh his testimony --

A On an equal --

Q -- to determine whether or not he was telling you the truth?

A That's correct.

Q Is that right?

A That's right.

Q And you would apply that same test to every other witness who testified, is that right?

A That's right.

Q You understand, of course, that the jury is to determine what the facts are in this case, and the jury is to determine that from the evidence that you get here in this courtroom from that witness stand, and no one can interfere with the jury in determining what the facts are.

On the other hand, the law that is involved in this case is given by the Judge who presides here. The Judge will tell the jury what the law is, the law that they are to apply to the evidence in this case, and the jury is bound to follow the Judge's instructions right to the letter. Do you feel that you can do that?

A I feel I could.

Q And even though you might have some idea of your own as to what the law is or should be and that differs from what Judge Blythin tells you the law is, could you set your own opinions aside as to the law and follow the Judge's instructions?

A I would follow the Judge's instructions.

Q I don't know whether I make myself clear or not. I do not mean that the Judge in any way will attempt to interfere with the jury in determining the facts. You understand that?

A I understand that.

Q That is the sole function of the jury. They are supreme in determining the facts.

Now, there will be in this case what we call direct and circumstantial evidence. Do you understand in a general way what direct and circumstantial evidence is?

A I understand in a general way.

130 Q The Judge, when he instructs the jury on the rules of law, he will instruct the jury as to what constitutes direct and circumstantial evidence as he will other phases of the law. For instance, he will tell the jury -- define to them what is meant by first degree murder, what elements are necessary to be proven in order to establish a case of first degree murder, and other phases of the law.

Now, when he instructs you on what is meant by direct

and circumstantial evidence, you will follow the Judge's instructions in that regard, will you?

A I will.

Q Generally, direct evidence is where a witness testifies to something that they see or something that they hear. Generally that is what we mean by direct evidence.

Circumstantial evidence is where the jury might draw inferences from proven facts.

Do you understand what I mean?

A I understand.

Q That, generally, is what circumstantial evidence is, and the Court will go into it, as I say, in his charge to the jury on the rules of law. Have you any particular prejudice of any kind relating to circumstantial evidence?

A No, I don't.

Q The Court will also instruct you as a rule of law in this case that where one is charged with the commission of a crime, where that person enters a plea of not guilty, as has happened in this case, that then the law presumes that the person charged to be innocent until the State of Ohio produces sufficient evidence to convince the minds of the jury of his guilt beyond a reasonable doubt.

Now, if Judge Blythin tells you that is the law, will you follow that instruction?

A I will follow his instructions.

Q And can you at this time right now give the defendant the benefit of the presumption of innocence?

A Yes, sir.

Q And you will require that the State of Ohio produce sufficient evidence to convince your mind of his guilt beyond a reasonable doubt before you will vote to convict him, will you?

A I will.

Q You have stated that you are not opposed to capital punishment, is that correct?

A That's correct.

Q And by that I suppose you mean that in a proper case, properly proven, you could join in a verdict in which the penalty would be death?

A That's correct.

Q And I am sure that you realize the seriousness and the importance of a matter of this kind?

A I do.

Q And you realize that as a juror you might be called upon to render a verdict which will take a human life?

A Yes, I understand that.

Q And as a juror, are you willing to assume that responsibility?

A Yes, I am willing.

Q Well, I might ask you many questions here, sir, and all of

these questions you understand are only in an endeavor to get a jury that can be absolutely fair and just and impartial, not an attempt to pry into your private affairs.

A I understand.

Q You understand that?

A Yes, sir.

Q I am sure that as a juror you would not be influenced in the slightest in this case by any bias, passion or prejudice of any kind, would you?

A No, I would not be influenced by any.

Q You would not be influenced by any sympathy, would you?

A No, I wouldn't.

Q For anyone here?

A No, I would not.

Q You would decide this case on the facts as you get them here in this courtroom and absolutely nothing else, is that right?

A That's correct, on the facts that are presented here.

Q Well, now, I want to ask you to search your own mind and see if there is something that I might not have touched upon which you feel might in some way unduly influence you in this case. Search your own mind. If you can think of any reason at all, however slight it might be, why, you could not be absolutely fair to both the defendant on the one hand, and the State of Ohio on the other. Will you tell us at this time?

A

I feel I could be absolutely fair with both sides.

MR. MAHON: Thank you, sir. We
will pass for cause.

THE COURT: After the recess, will
you be kind enough to take that seat?

MR. DANACEAU: The other side hasn't
examined him yet.

THE COURT: Would you object to
having a little recess now?

MR. GARMONE: We haven't examined him yet.

THE COURT: Oh, yes. I beg your
pardon. You are not to take that seat. You are
to come right back here. The counsel for the
defense also would like to put a few questions to
you, and I overlooked that at the moment.

We will have a few minutes' recess, and
will you folks be very careful in the meantime not
to discuss this case at all, not even among yourselves?
Just leave it right where we are until we get back.

(Thereupon a recess was taken.)

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(AFTER RECESS:)

THE COURT: This is Mr. Corrigan of the defense. He would like to put a few questions to you.

EXAMINATION OF PROSPECTIVE JUROR FRANK J. KOLLARITS:

BY MR. CORRIGAN:

Q Mr. Kollarits, Mr. Petersilge over here and Mr. Garmone and I represent Dr. Sheppard. Do you recognize him?

A From the pictures I have seen, yes.

Q Do you know which man he is?

A Yes, I do.

Q Mr. Mahon talked to you about sympathy, and that you would not extend any sympathy to the defendant. I assume, Mr. Kollarits, that you have the ordinary sympathy that any person has, you feel sorrow for the misfortune of other people?

A That is right.

Q Did you get from his question on that particular subject that we were in Court here looking for sympathy?

A No, I did not.

Q You understand that we are in court not looking for sympathy but looking for justice?

A That is correct.

Q And you believe in our American system of laws?

A I do.

Q And our American idea of justice?

A I do.

Q Now, I didn't get -- do you have a family?

A Yes. I have two boys.

Q How old are the boys?

A 11 and 15.

Q And where did they go to school?

A One goes to Benedictine High and the other one goes to St. Margaret's Parochial School.

Q One is a high school and one is a grade school boy?

A That's right.

Q How long have you been at your present address?

A The last 20 years.

Q Were you born in Cleveland?

A I was born in Pittsburgh.

Q And came to Cleveland when?

A The first time I came to Cleveland was probably around 1919.

Q You were a very young man then?

A Yes, I was a small boy at that time.

Q You were a boy?

A That's right.

Q And you went to school here?

A Well, part of the time.

Q And how old were you when you started to work?

A I started to work when I was 19 years old.

Q With the Harshaw --

A 30 years old, excuse me -- 20 years old, I mean.

Q With the Harshaw Chemical Co.?

A Yes. I started with them in 1930.

Q And you have remained with the same company ever since?

A Ever since then I have been with the same company.

Q What is your occupation at the Harshaw Chemical Co.?

A I am a receiving clerk down there.

Q Are they out around Bedford somewhere?

A No. They are at 1000 Harvard, underneath the Harvard-Denison bridge.

Q Oh, under the bridge, that's right.

Do you live close to where you work?

A No. I live out on the east side near Shaker Square.

Q Off Buckeye?

A That is correct.

Q Now, you say that you have read something about the case in the paper, about the case of Dr. Sheppard, is that correct? ✓

A Yes, I have read some of it. ✓

Q And have you noticed since you have come to the Courthouse here, during the time that you have spent here, during the past two weeks, the great number of newspapermen and ✓
photographers around the halls and in the courtroom?

A I have noticed them around. ✓

Q When you were summoned as a juror, your name appeared in the paper?

A That is right.

Q Was there any conversation with you at that time by anybody?

A No, other than that I didn't read the paper that evening, and I got a telephone call that my name was in the paper. That's all that was said.

Q And who called you?

A I don't recall who it was anymore.

Q Some friend?

A Some friend it was.

Q Where you work, at the Harshaw Chemical Co., do you come in contact with a number of fellow workers?

A I do, a number of them.

Q About how many?

A Well, there's about six or seven down at the particular office I work in.

Q Has there been any discussion in your presence by those other people working in the office about the case?

A There has been some talk about it.

Q Did that take place -- do you eat lunch together, or do you eat in the shop there or the factory?

A Well, I eat lunch by myself.

Q And the discussion that has taken place between your fellow workers has been during the course of the day?

A During the course of the day during working hours.

Q Do you recall that sometimes when they came in the morning they would discuss what had appeared in the paper the night before or the morning paper that they read?

A I believe that is when most of their discussion was, in the morning, what was in the paper.

Q And when they would come to work?

A That's right.

Q And you, in turn, discussed it with them?

A No, I didn't take part in it.

Q Do you subscribe to a newspaper?

A Yes, I do.

Q And what paper?

A That's the Press.

Q The Press is delivered to your house?

A That's correct.

Q And you have read from time to time the articles that appeared in the Press about this case?

A I have read, as I said, the front part of the paper. I seldom get around to the inner pages of the paper.

Q Did you read in your perusal of the newspaper that Dr. Sheppard is accused of having murdered his wife in her bed?

A I don't recall reading that.

Q Well, do you recall reading in the newspaper that his wife was murdered by a number of blows that were rained upon her

head?

A That I recall.

Q And that the murder that was committed against this young woman was a very violent and repulsive murder?

A I recall reading about that, too.

Q You recall reading that?

A Yes.

Q Now, do you recall reading, also, various editorials that appeared on the front page of the Cleveland Press, such as, "Why Isn't Sam Sheppard in Jail"?

A No, I don't believe I read that article.

Q "Why Not Quiz the Chief Suspect"?

A I don't recall reading that article.

Q "Give Him the Third Degree"?

A Or that, either.

Q You don't recall that?

A No.

Q You don't recall those front page editorials?

A I don't recall.

Q Now, when you read about the violence of this murder -- I assume that your wife also reads the paper?

A She very seldom reads the paper, even less than I do. She very seldom reads the paper, even less than I do.

Q How about the boys?

A The boys, they look at the comics, that's about all.

Q They don't get far beyond the comics?

A That's the first thing they read, and they don't go any further.

Q I suppose they are like normal boys, they are interested in the athletics and things of that kind?

A That is correct.

Q Now, since you have been called on the jury, did you pay a little more attention --

A Not particularly.

Q -- due to the fact that you knew that some day you would have to come down to court?

A Not particularly. I didn't pay more attention to it.

Q Were there any remarks when your name appeared in the paper? Of course, your fellow workers knew about it?

A Yes, they knew about it.

Q Were there any remarks made by them?

A Not particularly. They kidded me about it, that's about all.

Q In what way did they kid you?

A I don't recall exactly what it was, but they were kidding me about me getting on the jury, that's about all.

Q Did any of them say that would be quite a thing, to get on the Sheppard jury?

A There might have been some remarks of that sort, I don't recall it.

Q That you would get your picture in the paper, and so forth?

A There was no mention about pictures.

Q Now, during the discussion with your fellow workers, was there any stories told to you?

A No, I haven't taken part in much of the discussion. I don't recall any stories that were given at all, if there was any.

Q What?

A If there was any, I don't recall any.

Q You don't recall them now?

A No, I don't recall any stories.

Q Do you recall whether they made any remarks about Dr. Sheppard?

A No, I don't recall any remarks made. All I know, they discussed it and that's as far as it went.

Q Now, Mr. Kollarits, you realize that I am asking these questions for the purpose of getting your reactions in this particular case where I and these other lawyers have on our hands the obligation of defending a man whose life is in jeopardy; you realize that?

A I understand.

Q So that I wish you would search your mind and see if in the conversations that went on in the factory with your fellow workers there were things talked about that reflected upon Dr. Sheppard and indicated to you that he might be guilty of this crime?

A I don't recall any.

Q You don't recall any?

A I don't recall any, sir.

Q I see. Well, now, did you discuss it with your wife?

A No, I have not.

Q During the day time while we are in court here -- I know this because my wife tells me this -- there have been broadcasts almost hourly of what has been going on here. You see all these people back here. Most of them are newspaper reporters or television or radio men, and they carry the message from the courtroom out to the hall.

Now, has your wife discussed the broadcasts?

A My wife does not listen to the radio.

Q Doesn't she?

A No.

Q Does she look at the television?

A She watches television in the evenings a little bit.

Q And there have been on the television, so I am informed, various television matters concerning this particular case. Have you seen any of those?

A I saw some of the pictures.

Q You saw some of the pictures?

A Yes.

Q And what were those pictures that you saw?

A Oh, just various people out in the hallways.

Q They had a picture of me one day walking across the street.

Did you see that?

A That, I didn't see.

Q I had a girl on my arm.

A I didn't see that.

Q Well, you have seen some of those pictures?

A I have seen them.

Q Now, as you looked at them in your home, your wife looked at them at the same time, and you were perfectly conscious and your wife was conscious of the fact that you were looking at pictures of a case in which you were vitally interested; that is so, isn't it, that you were interested in this case?

A That is right. She saw them.

Q And were any comments made about it?

A There was no comments made about it.

Q Well, your wife surely said something?

A Oh, she might have said that I wasn't in the picture, or something of that sort.

Q What?

A That I wasn't in the picture, something of that sort, but no other comments.

Q Don't worry, she'll see you.

Well, now, when you come home in the evening -- you haven't gone to work during the time that you have been assigned over here, have you?

A No, I haven't.

Q So that your entire time has been spent just waiting around here to get to this moment that we are at now?

A That is correct.

Q And when you got home in the evening, of course, I suppose your wife exhibited the natural curiosity that any wife would exhibit as to what you had been doing all day and what was going on, is that correct?

A Well, now, she never asked me what was going on. The only thing she asked me, whether I was through or not, and I would answer, "I don't know. I can't tell."

Q Now, there have been people who have gone out to Dr. Sheppard's home and have gawked at the home. You have read that in the paper, haven't you?

A I have seen a little bit of that in the paper. ✓

Q In discussing this matter with your fellow workers and with anybody, have there been any who talked to you that had gone out to that house and looked at it?

A No, I don't know of anybody that's gone out there and looked at it.

Q I assume that you have some friends and acquaintances that you have met since you were summoned as a juror? ✓

A That's right.

Q And they knew that you were summoned as a juror, didn't they? ✓

A Yes, they did.

Q They talked to you about it?

indicted for murder in the first degree?

A Yes, I understand that.

Q The highest degree of crime?

A Yes, I understand that.

Q And a verdict of guilty of that degree of crime carries with it the penalty of death unless the jury recommends mercy.

Do you understand that?

A I understand that, also.

Q Now, the law is that an indictment of itself, under our American law, does not raise any presumption of guilt. But generally people take this attitude: That if a person is indicted, there must be something to it, and they kind of forget the old Anglo-Saxon precept of the presumption of innocence and adopt the -- what shall I call it -- the axiom, "Where there is smoke, there is fire."

Now, let me ask you, you understand what I say, don't you?

A Yes, I understand.

Q You know that Sam Sheppard, Dr. Sam Sheppard, is accused of that very repulsive murder of his wife? You know that, don't you?

A Yes.

Q You know that he has been indicted by the Grand Jury?

A Yes.

Q You know that he is sitting here on trial?

A Yes.

Q To be judged by a jury?

A Yes.

Q Do you presume him to be innocent at this time?

A Yes, I do, I presume him to be innocent at this time.

Q And the law is that that presumption of innocence that you have now in your mind goes with him throughout the entire case until the jury retires to their jury room and analyzes the evidence and becomes convinced beyond a reasonable doubt that he committed this murder. Do you subscribe to that?

A Yes, I do.

Q I understand that you had a cousin or a nephew of your wife's who was a police officer of the City of Cleveland.

A A nephew of my wife's.

Q And I understand that you don't have much contact with him, is that correct?

A That is correct, only on special occasions.

Q Is that the son of your wife's sister or brother?

A My wife's brother.

Q What does your wife's brother do?

A He is a foreman, I believe, at Monarch Aluminum.

5 Q The letter that you received in the mail that you told the Court about and that -- did you read it?

A No, I did not.

Q Did you look at it?

A I opened it up and looked at it, saw the pictures, and that's as far as I got.

Q You regarded it as some sort of a crank?

A Yes, I did.

Q You say you gave it to the police?

A That is correct. I called up the Police Department and two detectives came out and picked it up.

Q Do you know who the detectives were?

A No. I failed to get their names.

THE COURT: Did they have any conversation with you about the case when they came out?

PROSP. JUROR KOLLARITS: No, they didn't have no conversation whatsoever about the case.

Q Did they come into the house?

A They came into the house.

Q Did they sit down?

A They sat down for a few minutes.

Q Well, you did talk something to them?

A Well, they read the letter. We didn't talk much. They just read the letter, and they said they'd take it along with them.

Q And there was no discussion about the case?

A There was no discussion about the case.

Q The discussion was confined entirely to the letter?

A That is correct.

Q Mr. Kollarits, the indictment here charges murder in the

first degree, as I stated before, and the charge of murder in the first degree, as set forth in this indictment that has been returned by the Grand Jury, has for its particular purpose notifying the defendant what he is charged with so that he can meet those charges by a proper defense, so he can prepare to meet the charge by bringing in his defense. And the charge is that he unlawfully, purposely and of deliberate and premeditated malice killed his wife, Marilyn.

Now, do you understand all those words?

A I understand.

Q Do you understand what is meant by deliberation?

A I understand that.

Q By purpose?

A I understand that.

Q By premeditation?

A I understand that.

Q If the Court charges you that in order to find him guilty or find anyone guilty of a charge of first degree murder, that all the elements, not some of them, but all the elements must be proven by evidence beyond a reasonable doubt, and that it is not sufficient for the return of a verdict of first degree murder when only some of those elements or some of those things are proven, will you, before you return a verdict of first degree murder in this case, require the prosecution to prove each and every one of those

elements by evidence beyond a reasonable doubt?

A That I will.

Q Now, when an indictment is returned charging first degree murder, it also includes other degrees of murder in other senses; although they only say first degree murder in the indictment, under the law that will include any degree of murder, such as second degree murder, manslaughter or the crimes of assault and battery and assault, and it is just as necessary for the State of Ohio, the prosecution, to prove the elements of each one of those degrees of crime, before they are entitled to a verdict, beyond a reasonable doubt.

Will you require that proof as to second degree murder, manslaughter, assault and battery and assault in this case?

A Yes, I will.

Q Now, Mr. Mahon has talked to you about circumstantial evidence. Do you know Mr. Mahon, by the way?

A No.

Q What?

A No, I don't know him.

Q He is a candidate for Judge, probably will be elected. You haven't run into him around the neighborhood?

A No, I haven't.

Q Now, he has talked to you about circumstantial evidence, and you have undoubtedly, Mr. Kollarits, a general idea of what

direct evidence is and what circumstantial evidence is?

A Yes, I have a general idea.

Q Direct evidence is where you see it yourself, looking at it.

A That is correct.

Q Circumstantial evidence is where you draw a conclusion from circumstances that surround a thing.

A Yes.

Q There are certain rules and regulations designed in the law covering the conviction of a person on circumstantial evidence. The Judge said to you, Judge Blythin said to you that you would be the judges of the facts. Do you remember that statement by the Judge, that the jury was the judge of the facts?

A Oh, I remember that.

Q You remember that statement by him?

A I remember that statement, yes.

Q And we distinguish in the trial of a lawsuit such as this between the function of the jury and the function of the Judge, and when he said to you that you were the judges of the facts, did you understand it to mean that you, as a member of the jury, would determine what was true and what was false?

A That is correct.

Q Now, in the determination of the facts, as, for instance, whether the day is fair or the day is cloudy or whether a man

was walking or whether he was standing, and things of that kind, those are facts. You understand that?

A Yes.

Q You are the sole judge of that. In the matter of the law, however, that is within the province of the Judge. For instance, he will define to you what first degree murder is, what second degree murder is, what manslaughter is. He will define to you the rules and regulations by which you shall apply your judgment of the facts. Are you willing to accept his definition of the law as he gives it to you?

A Yes, I would.

Q Not apply any notions of your own?

A No, sir.

Q As to what the law should be?

A No, sir.

Q There are people in this country that do not believe in our laws. You know that, don't you?

A I have heard of it.

Q They subscribe to some foreign ideas of what should be the law. You have heard of that?

A I have heard of that.

Q You subscribe to our American law and believe in it?

A Yes, I do.

Q Now, in charging you and telling you what the law is, and particularly on the question of circumstantial evidence,

if the Court says to you that when reliance for conviction is placed on circumstantial evidence, the facts and the circumstances upon which the theory of guilt is placed must be shown beyond a reasonable doubt, and when taken together, must be so convincing that they are not reconcilable with Sam Sheppard's claim of innocence, and that they admit of no other supposition except Sam Sheppard's guilt --

A I didn't quite understand.

Q I will put it to you again. I want you to understand it.

In the first place, evidence must be produced that convinces your mind beyond a reasonable doubt. You understand that?

A Yes, I understand.

Q That applies to whether the evidence is direct or whether it is circumstantial evidence.

A That's right.

Q But when reliance is placed upon circumstantial evidence, the facts and circumstances when all taken together must be so convincing that they point to no other thing except the defendant's guilt.

A That is right.

Q And taken together, they must be such that they cannot be reconciled with the defendant's claim of innocence. Do you understand that?

A I understand.

Q And the facts and circumstances all taken together must be such, of such force and power and of such convincing nature that they admit of no other situation except that he is guilty. Now, do you understand that?

A Yes.

Q And if that law is charged, not exactly in the language that I give you now but in the general substance of what I have given you, will you apply that law in this particular case and follow that law?

A I would.

Q Now, we have a situation here where you will have a conflict of testimony, one side from the other. We may have police officers testify, and some of their testimony may be contradicted by the testimony of ordinary people who are not police officers. Would you give more weight to the testimony of a police officer than you would to an ordinary citizen?

A No, I would not.

Q You would not?

A No.

Q And we will have doctors from the coroner's office, probably the coroner himself, who is a public official, and we will have doctors maybe that will contradict some things that the officials say. Would you give more weight to doctors from the coroner's office, or the coroner, than you would to doctors that we would bring here?

A No, I would not.

Q Dr. Sheppard is a Doctor of Osteopathy. Some medical men have a degree of M.D., Medical Doctor, and some medical men have a degree of O.D. -- what is it, O.D. or D.O.?

MR. GARMONE: D.O.

MR. DANACEAU: D.O.

Q (Continuing) D.O., Doctor of Osteopathy. Do you know anything about the distinction between the two?

A No, I don't know the distinction between the two.

Q And if a Doctor of Osteopathy testifies and you find that he is a competent medical man, you would give his testimony the same weight you would to a man who had a degree of M.D.?

A I would.

Q Now, in the articles that you have read in the newspapers -- have you read them during the past two weeks?

A Oh, scantily; I have read some.

Q Well, the Press was still delivered to your home while you were a juror?

A Yes.

Q Did you see an article, a front page article, in the Cleveland Press last Saturday that was over the top of the page, and it said, "Who Will Speak for Marilyn"? Do you remember that?

A No, I did not read it. I was not home all week, during the week, and I didn't read any of the weekend papers.

Q You did not read that article?

A No.

Q Well, in the reading of the papers over a period of time, did you come across the name of a young lady named Susan Hayes?

A Yes, I did.

Q You read about that?

A I read about it.

Q And did you discover in the reading of that that Susan had made some revelations to a newspaper reporter that was later published and broadcast, that she had some intimacies with Sam Sheppard?

A Yes, I did.

Q Does that prejudice you in any way?

A Not whatsoever.

Q Now, Mr. Kollarits, if you are accepted as a juror, will you decide the case of my client, Sam Sheppard, solely on what you hear in this courtroom?

A Yes, I will, solely on that.

Q Will you allow anybody to talk to you or influence you?

A No, I would not.

Q Your wife or friends or fellow workers or anybody else?

A No one.

Q Will you pay any attention to what is published in newspapers about this case?

A No, I would not.

Q You know that you will know more, if you are on this jury, you will know more about this case than anybody in the world except your fellow jurors and the people in this courtroom; you know that, don't you?

A I know that.

Q And that what appears in the newspapers and on the radio and the television are just excerpts of what occurs in this courtroom; you know that, don't you?

A I know that.

Q They pick out the sensational things and emphasize them.

A That is right.

Q Will you allow anybody to talk to you at all about this case?

A No, I would not.

Q Now, I have asked you quite a number of questions, Mr. Kollarits, haven't I?

A Yes.

Q And Mr. Mahon has asked you quite a number of questions, and the Judge has asked you questions.

A Yes.

Q It is probably the first time in your life that you had such a going over.

A Beg pardon?

Q It is probably the first time in your life that you had such a going over.

A That is correct.

Q Now, even though we ask these questions in an attempt to determine whether you will be a fair and impartial juror, something may occur to you that I haven't asked about or no one else has asked about. Has anything occurred to you from the beginning of this case, from the time you first talked about it, from your association or from your time down here in the Courthouse, from the time you have come on this stand, that occurs to you that you would like to state would interfere in any way with your judgment in this case?

A No, I would not. I gave it great thought, and I found out I couldn't find anything.

MR. CORRIGAN: If that is so, we pass for cause, your Honor.

MR. PARRINO: He didn't hear you.

MR. CORRIGAN: We pass for cause, your Honor.

THE COURT: All right. Mr. Kollarits, will you be kind enough, after the noon hour, to take that vacant chair between those last two people over there?

We will now recess for the noon hour and we will return here at 1:15 this afternoon. And will you please, in the meantime, be careful not to discuss

this case nor any matter connected with it in any way, shape or manner with anyone?

Without any formality at all, we will adjourn until 1:15 this afternoon.

(Thereupon an adjournment was taken at 11:55 o'clock a.m. to 1:15 o'clock p.m. of the same day, at which time the following proceedings were had:)

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Thursday Afternoon Session, October 28, 1954.
1:15 o'clock p.m.

THE COURT: We are now down to the next challenge, which is the defense.

MR. CORRIGAN: We will pass.

THE COURT: Has the State any challenge?

MR. MAHON: The State will pass, your Honor.

THE COURT: All right. If you pass once more, gentlemen, we will stop right there.

Now the defense.

MR. CORRIGAN: The defense passes.

MR. MAHON: Your Honor, may I ask one or two questions of the jury here?

THE COURT: You want to ask a question?

MR. MAHON: One or two questions, yes.

THE COURT: Yes, you may do that.

MR. MAHON: Now, ladies and gentlemen, some of you have been in the room here for quite a long time, most of you, and you have heard these questions being repeated over and over again. The purpose of now asking a few questions is to see whether or not at this time, now that you more fully realize what this case is about, the seriousness and

importance to all parties concerned, whether or not there is now in the minds of any of you anything that might in any way influence your mind outside of the evidence that you get here in this courtroom, if there is anything, however slight it might be, that might in any way influence your mind in this case outside of the evidence from that witness stand and the law as his Honor, Judge Blythin, will give to you, if you think of anything, please tell us at us at this time, because after you are once sworn, then it is too late.

Can any of you think of anything?

Can you, sir?

PROS. JUROR BARRISH: No, sir, I can't.

MR. MAHON: Can you, madam?

PROS. JUROR BORKE: No.

MR. MAHON: Or you?

PROS. JUROR VERLINGER: No.

MR. MAHON: And you?

PROS. JUROR LAMB: No.

MR. MAHON: Mrs. Feuchter?

PROS. JUROR FEUCHTER: No.

MR. MAHON: Mr. Manning?

PROS. JUROR MANNING: No.

MR. MAHON: Mrs. Foote?

PROS. JUROR FOOTE: No.

MR. MAHON: Mrs. Orenstein?

PROS. JUROR ORENSTEIN: No.

MR. MAHON: Mr. Bird?

PROS. JUROR BIRD: No.

MR. MAHON: Mr. Moravec?

PROS. JUROR MORAVEC: No.

MR. MAHON: Mr. Kollarits?

PROS. JUROR KOLLARITS: No.

MR. MAHON: Mrs. Williams?

PROS. JUROR WILLIAMS: No.

MR. MAHON: You cannot. Thank you
very much.

The State is satisfied with this jury, if
your Honor please.

THE COURT: All right. Has the defense
any final question to put to the group as they are
now constituted without opening the general inquiry?

MR. GARMONE: You have all heard the
last statement made by Mr. Mahon, so rather than
repeat it, I will ask you individually.

Mr. Barrish, you have no reasons why you
can't be fair and impartial?

PROS. JUROR BARRISH: No, sir, I have no reason
whatsoever.

MR. GARMONE: Mrs. Borke?

PROS. JUROR BORKE: No.

MR. GARMONE: Any reason or thought
whatsoever?

PROS. JUROR BORKE: No.

MR. GARMONE: Mr. Verlinger?

PROS. JUROR VERLINGER: No, sir, I don't.

MR. GARMONE: Mr. Lamb?

PROS. JUROR LAMB: No, sir.

MR. GARMONE: Mrs. Feuchter?

PROS. JUROR FEUCHTER: No, sir.

MR. GARMONE: Mr. Manning, you haven't
been here as long as the others and haven't received
what additional education that they have had as
against what you have heard. Do you know of any
reason?

PROS. JUROR MANNING: No, sir, I don't.

MR. GARMONE: Mrs. Williams?

PROS. JUROR WILLIAMS: No, sir.

MR. GARMONE: Mr. Kollarits?

PROS. JUROR KOLLARITS: No, sir.

MR. GARMONE: Mr. Moravec?

PROS. JUROR MORAVEC: No.

MR. GARMONE: Mr. Bird?

PROS. JUROR BIRD: No, sir.

MR. GARMONE: And you won't mark my paper on the basis of the grammar that I used during the empaneling of the jury, will you?

PROS. JUROR BIRD: No.

MR. GARMONE: Mrs. Orenstein?

PROS. JUROR ORENSTEIN: No, sir, I do not.

MR. GARMONE: Mrs. Foote, do you know of any reason?

PROS. JUROR FOOTE: No, sir.

MR. GARMONE: Thank you all.

(Thereupon a conference was had between Court and counsel, out of the hearing of the jury, after which the following proceedings were resumed within the hearing of the jury):

THE COURT: Ladies and gentlemen of the panel, I take it that you will be somewhat relieved to know that this ends the questioning and the challenges both for cause and peremptory, as far as you are concerned, but you are to understand that you have not yet been finally accepted and seated to try this case.

Counsel have a matter of law to present to the Court at this moment, which should be presented in your absence. It won't concern you at all in any way, shape or manner. Will you please return to your

jury room and remain there by yourselves without being in the presence of others, and until you are recalled here, will you please observe the caution which the Court has expressed to you:

Do not discuss this case or any matter connected with it, even among yourselves in your jury room or elsewhere.

(Thereupon the following proceedings were had in the absence of the jury):

THE COURT: Now, Mr. Corrigan.

MR. CORRIGAN: If the Court please, the State has signified their acceptance of this jury. The ruling of the Court to us was that if we passed the second time we could exercise no further challenges. We had knowledge of that from the Court, and we chose to pass the second time. That resulted in the fact that this jury will be the jury that tries the case of Sam Sheppard, or in the event that we empanel an alternate juror, and one of these jurors gets indisposed and the alternate juror takes his place, that will be the jury in this case.

As far as we know, this is the jury. However, in taking the action that we did, we do not intend to waive any rights that we have under the motions

and claims that we have heretofore filed with the Court, and we renew those motions at this time, and ask for a ruling by the Court on both of our motions.

In urging the granting of the motions, we wish to call to the Court's attention that all the people sitting on the jury, with the exception of Mrs. Borke, Juror No. 2, have read about this case, have talked about this case, a great many have heard radio and television, and we still maintain that even though they express they have no opinion, that human nature is such that they cannot help but be affected by the situation presented from the beginning of this -- the happening of this murder down to the present time.

We therefore renew our motions. And Mr. Garmone calls my attention to the fact that all the jurors in the box, with probably the exception of one, have testified that they have had opinions expressed around where they were.

THE COURT: Well, now, Mr. Corrigan, the Court did overrule the motion to continue, but you again renewed it in the midst of this jury inquiry, and it may be considered renewed again, and we will treat it at this moment as being renewed,

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and will be passed upon by the Court. The Court has no difficulty whatever in saying that he will overrule that motion.

Now, coming to the other, you have tendered some evidence, and the reason he doesn't overrule your renewed motion to continue now is that at the point when you proffered some exhibits here, you did it in connection with the renewal of your motion, and I would gather that those were offered in support of both motions, is that right? ✓

MR. CORRIGAN: Yes.

MR. GARMONE: That's right.

MR. CORRIGAN: I will offer them again at this time, your Honor.

THE COURT: All right. The Court will overrule the tender of those, but show them proffered, of course, and if you have any others, the Court is perfectly willing to have you put them in the record and deal with them as if they had been proffered at this time, with the understanding that the prosecutor, of course, knows what is being tendered. I am perfectly willing you make the record, but the Court has reached this conclusion very definitely, and he is just now where he was on the theory of the matter at the outset of this attempt ✓

to empanel a jury:

That the best evidence in the world is the effort to select a jury, and what we get here in a picture that has taken almost two weeks of time. The Court is thoroughly satisfied that we have here a fair and impartial group of people to try this case, and I doubt if under any conditions at any time anywhere in this State you could have a better looking group of people and a more intelligent group of people, as a whole, to try a case of this kind, and the Court is thoroughly satisfied that they are a group of fair and impartial people who can properly try this case under the guidance of the Court, and I hope we will be able to give them that in the manner that it ought to be given.

The Court is prepared to overrule both motions, and exceptions will be taken as to each, and with the reservation that you may make the record on what you would have produced in support, particularly, of the motion for change of venue. ✓

MR. CORRIGAN: I have, your Honor, Defendant's Exhibits No. 1 and 2, which were records of newspapers printed in the city of Cleveland during the time up to the beginning of this case. ✓

THE COURT: Yes. Mr. Corrigan, where

are they?

MR. CORRIGAN: The court reporter has them. It isn't necessary to bring them here into court again.

THE COURT: No, but we ought to, before we leave this matter at this stage of the proceedings -- after we get the jury here, we ought to get them together and make sure where they are and see that they are properly marked.

133 MR. CORRIGAN: Well, without taking up any more time, we will leave it go that way, and sometime during the course of recess we will bring those into court and see that they are properly marked.

MR. GARMONE: May we consult with the Court in his chambers, all sides?

MR. MAHON: Can't we do it here?

MR. GARMONE: We can do it here.

THE COURT: If the rest of the good people --

MR. GARMONE: It is just on the question of the number of alternates.

THE COURT: Well, that is exactly what I had in mind. We haven't discussed that at all. What is your thought, gentlemen, as to the number of

are they?

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THE COURT: Well, that is exactly what I had in mind. We haven't discussed that at all. What is your thought, gentlemen, as to the number of

alternates?

MR. GARMONE: We feel that there should be two because of the length of time this case may take. We had one experience with Mr. Solli.

MR. CORRIGAN: I think there ought to be two.

MR. MAHON: I think we ought to have two. I will agree with them. This case might run three or four weeks on the evidence, and I think we should have two.

THE COURT: Can you agree that there be two alternates selected at this time?

MR. MAHON: Yes, we will agree to that.

THE COURT: That will be agreeable --

MR. GARMONE: Now, wait awhile. You said "Can we agree that there will be two alternates selected at this time?"

THE COURT: Yes, that is what we are going to do.

MR. GARMONE: We are going to make an attempt to select two alternates. We are not going to agree that two can be selected at this time.

THE COURT: We are going to proceed in an attempt to select two alternate jurors. All right.

(Thereupon proceedings were resumed in the presence of the jury panel, as follows):

(Thereupon the jury was sworn by the Court.) ✓

(Thereupon the empaneling of alternate jurors commenced, as follows):

Thereupon JOSEPH. A. KACZMAREK, being first duly sworn, was examined and testified as follows:

EXAMINATION OF PROS. JUROR JOSEPH A. KACZMAREK

By the Court:

Q Is your name Joseph A. Kaczmarek?

A Yes, your Honor.

Q Is that how you pronounce it?

A Kaczmarek.

Q And you live at 3855 East 50th Street?

A That's right.

Q That would be Newburgh Heights?

A Newburgh Heights.

Q And are you a married man, Mr. Kaczmarek?

A No, your Honor. I am single.

Q You are a single man?

A That's right.

Q Will you tell us who you live with?

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(Thereupon the jury was sworn by the Court.) ✓

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Q Is that how you pronounce it?

A Kaczmarek.

Q And you live at 3855 East 50th Street?

A That's right.

Q That would be Newburgh Heights?

A Newburgh Heights.

Q And are you a married man, Mr. Kaczmarek?

A No, your Honor. I am single.

Q You are a single man?

A That's right.

Q Will you tell us who you live with?

A I live with my parents at the same address.

Q And how many people are there in your household?

A Three.

Q Just the three of you ?

A Yes.

Q Your father and your mother and yourself?

A Yes, sir.

Q What is your father's name, please?

A His name is Joseph.

Q What is his occupation or trade?

A He is a barber.

Q Where is his place of business?

A The address?

Q Yes, roughly where?

A It is on 6303 Fleet Avenue.

Q What is your occupation, please?

A I am a letter carrier.

Q For the United States Government, I take it?

A Yes, your Honor.

Q How long have you been a letter carrier?

A Since -- well, I have been in the service since 1939 as a regular employee, and as a mail carrier -- as a letter carrier, I have been carrying since 1946 but I have been in service -- I made a transfer from clerk to --

Q In some branch of the service since 1939?

A Within the post office.

Q Where do you carry, roughly, just the outline?

A I deliver mail between the streets Quincy and Central and between the streets East 64th to 76th.

Q That is the area?

A That is the area.

Q Have you ever served as a juror before in any court?

A No, your Honor.

Q Have you ever been a witness in any case in any court?

A No, your Honor.

Q I take it that you were here a week ago last Monday morning and you heard these good people around the table here presented to you. Do you know any of them?

A I do not.

Q And do you know the County Prosecutor of this County or any member of his staff?

A I do not know him personally, nor any of his staff.

Q Do you know the Sheriff or any member of his staff?

A No, your Honor.

Q Or the Coroner, Dr. Gerber, or any member of his staff?

A No, your Honor.

Q When I speak of your family, now, if I may, I would like to refer to your father's people and to your mother's people. Have you any brothers or sisters?

A I have two brothers.

Q All right. I am referring to them, also, and their families, and while we are at it, what do your brothers do?

A My brother Edward is assistant supervisor with the Star Bakery, Star Service.

Q Assistant supervisor at the Star Baking Company?

A Yes.

Q The other brother, now.

A My youngest brother, Jerome, is with the Cleveland Pneumatic Tool Company.

Q What does he do there?

A He is a machinist.

Q Are there any members of your people, family, who are members of a police department or any law-enforcing agency, if you know?

A No, your Honor.

Q Have you or any of your people, if you know, ever had violence visited upon you or on others in your family at any time?

A Never, not that I know of.

Q I take it that you have heard of the Sheppard case before? ✓

A I have, your Honor.

Q By what means have you heard of it, generally? ✓

A Generally, by radio and newspapers. ✓

124 Q And you have discussed it with your fellow-employees, or with others? ✓

A I have discussed it insofar as the questions were directed to me. I have never paid too much attention to it, that is, personally.

Q Let me ask you a general question, then:

As a result of what you heard, what you have read, or any discussions that you had, have you formed any opinion at all as to the guilt or innocence of Sam Sheppard?

A I have not.

Q Have you ever expressed any opinion to anyone?

A I reserved my opinion in that respect. I never -- never.

Q Do you now have an opinion as to his guilt or innocence?

A I do not.

Q I will ask you if, in a proper case, you have any objection to capital punishment?

MR. CORRIGAN: Object.

THE COURT: Overruled.

Q You may answer that. Do you have any objection in a proper case to capital punishment?

A I have no objection.

Q Do you understand that a person, even though he be here charged with a crime, no matter whether that crime be petty or very serious, that he is presumed to be innocent, even though he be indicted by the Grand Jury and be here on trial? Do you understand that?

A Very thoroughly.

Q And that he is to continue to be presumed to be innocent until the State has proved him guilty by evidence which convinces you of that guilt beyond a reasonable doubt, do you understand that?

A I understand that.

Q Do you understand, too, that it is the function of the jury, and the jury only, without interference from anyone, to make up their minds as to whether a man is guilty and to do so on the basis of evidence that comes from that witness stand where you now sit and the instructions of the Court as to the law? Do you understand that?

A I understand that.

Q And do you understand, also, that when evidence is produced by a witness, you are not at the outset to consider the station in life, the position, official or otherwise, of that person, or anything whatever in connection with them at the outset, but you are to weigh the testimony carefully for one purpose, and one purpose only: To determine what the truth is and what is not true? You understand that?

A I understand that, your Honor.

Q Have you since the 4th day of July of this year received any communication of any kind from anybody that could be directed or have some reference to the Sheppard case?

A I have. I have received that one letter in question, which was the -- was mentioned in the newspapers.

Q Have you got it with you?

A No, your Honor.

Q When did you receive it?

A I think the same time everyone else did. The day previous to the announcement in the paper. ✓

Q The day previous to the announcement in the paper about them having been sent out?

A Yes.

Q Now, I will show you the Court's Exhibit A-9 and A-10, and I will ask you to look at those and take a moment to do it carefully, and see if those are similar, the same as those that you received?

A Yes, your Honor, they are similar, the same.

Q They are the same thing. Do you know who sent you those?

A No, your Honor.

Q Well, you are a mailman, you ought to know who sent you that.

A When it comes to receiving mail, I am the same--

Q You have no idea who sent it?

A No, your Honor.

Q Have you entertained any idea at all that the Sheppard family or any of their friends had anything to do with it?

A No, never.

Q Now, the Court will say to you that we know who did send it, and the Sheppard family, their friends, had absolutely nothing to do with it. As a result of having received that

communication, or whatever you care to call it, would you be affected at all and would your judgment be affected by it?

A I haven't read the letter in its entirety, either one or the other page, either one or the second page. I would not be affected by its contents. I did not--I threw the letter out. That's exactly what I did.

Q You are to understand that counsel for the State on my left at the trial table, and counsel for the defense at the right, at our right of the trial table, are asking one thing and one only, and they are entitled to that, and that is an absolutely fair and impartial jury. Do you believe that you could sit here and listen patiently to the evidence and weigh it under the standards, which you have said you understand, which the Court stated and listen to the instructions of the Court as to the law and close out the rest of the world, everything that you heard or read about this matter, and decide this case entirely on what you hear here as evidence and as instructions as to the law? ✓

35 A Yes, your Honor.

Q All right. That is Mr. Danaceau, the assistant County prosecuting attorney. He would like to put a few questions to you.

EXAMINATION OF PROS. JUROR JOSEPH A. KACZMAREK

By Mr. Danaceau:

Q You have two brothers, Edward and Jerome?

A Yes, sir.

Q They do not live with you. I take it they are both married?

A They are married.

Q Where does Edward live?

A 7918 Force Avenue, and Jerome lives in the same home.

One lives up and one lives down.

Q It is a two-family house?

A It is a two-family house.

Q Now, you have also stated that you deliver mail in a certain area. How long have you delivered mail in that area?

A Since '50 -- it's two or three years.

Q Where did you deliver mail before you were in that area?

A I delivered in the downtown section.

Q And how long did you deliver in the downtown section?

A About a year and a half, to two years. There's a time lapse there when I went to school.

Q What school was that?

A I went to St. Mary's College in Michigan for one year and St. Joseph's College in Indiana for the next year. That would be '48 and '50.

Q Is that a straight arts course?

A Well, at that time I was thinking about doing mission work,

and I did not know at my age whether I would be able to go into that kind of work, but I tried this John Carroll University, and through a friend I was introduced to St. Mary's College, and I tried -- with the idea of being a missionary for two years, and after two years I quit the school. I couldn't go through with it.

Q Now, Mr. Kaczmarek, you understand, of course, that this is a case involving first degree murder?

A Yes, sir.

Q And that in this case, and in all other cases like it, before a person comes to trial there must first be an indictment, that is, a presentment, an indictment by a Grand Jury. Do you understand that, sir?

A I understand that.

Q Now, an indictment by a Grand Jury comes after the Grand Jury in this case, and in all other felony cases, hears the evidence, and in this case, and in all other cases, they hear only one side, that is the evidence that is presented through either the prosecuting attorney or through any members of the Grand Jury. They have a right, also, to ask any witness to be subpoenaed, and in this particular case, neither the defendant nor any person that he may have wanted to testify, came before the Grand Jury. Do you understand that, sir?

A I understand that.

Q That is what we lawyers call an ex-parte hearing. That is a hearing on one side.

Now, under our Constitution every person is entitled to a fair trial before an impartial jury and a fair Judge in open court. Do you understand that, sir?

A I understand that.

Q And he is to be tried upon what is presented in court and nothing else. Do you understand that, sir?

A Yes.

Q That is our American way of life, and others may have other ideas, but certainly you don't have any such ideas?

A I certainly don't.

Q Now, under our Ohio Constitution, before a person can be brought to court and charged with an offense, such as this, or any felony, there must be first an indictment, but that indictment is only a charge. It is not evidence. It is just a charge and nothing else. You understand that, sir?

A I understand that clearly.

Q And that notwithstanding the fact that the Grand Jury has presented this indictment, that the defendant, Sam Sheppard, is presumed to be innocent, and that presumption remains with them until such time as there is presented in this court evidence that will convince the jury of his guilt beyond a reasonable doubt. Do you understand that, sir?

A I understand that.

Q And you, of course, believe in that, do you not?

A I certainly do.

Q And you will carry it out?

A Yes, sir.

Q Now, the evidence will come to you from witnesses from that witness chair, and all of that evidence will have to be judged by the jury.

A Yes, sir.

Q Questions of law may arise during the proceedings, and legal principles will have to be applied to the evidence, and those questions of law will be decided by Judge Blythin, and those legal principles will be given to the jury by Judge Blythin at the proper time.

A Yes, sir.

Q And no matter what my personal views may be as to the law or your personal views may be as to the law, all of us in this courtroom must take the law as Judge Blythin gives it to us and to you. Do you understand that, sir?

A I understand that.

Q And will you accept the law as Judge Blythin gives it to you and disregard any other notions which you may or may not have?

A I will.

Q Now, the jury is the trier of the facts and have the sole responsibility to determine what the facts are. Their task is a search for the truth, and in order to make a proper

decision, arrive at a proper verdict, they have to analyze the evidence that is presented in court through witnesses. You will have to decide which witnesses to believe and which not to believe. Do you understand that, sir?

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A I understand that.

Q A jury may believe all that a witness testifies to, or it may disbelieve all that a witness testifies to. It may believe part of what a witness testifies to and disbelieve the balance. Do you understand that, sir?

A I understand that.

Q Now, in order to decide what weight or credibility to give to the testimony of each witness, the jury will be instructed that they may apply certain guides or rules, certain standards, and they must apply all of those rules or guides or standards, or whatever you may call it, to all of the witnesses equally, use the same yardstick with respect to all the witnesses. Are you prepared to do that?

A Yes.

Q Some of the witnesses may be professional people, some laymen, some who will hold public office, some police officers, you are to treat them all alike and apply the same standards to all. Do you understand that, sir?

A Yes.

Q And you are not to believe a professional man or a police officer or a layman, all other things being equal, merely

because he is a professional man or a policeman or a layman.
Do you understand that, sir?

A Yes, sir.

Q Now, these guides or rules that I have referred to, will be explained to you by the Court. I will refer to a few of them in order to illustrate what I am talking about.

When a witness takes the witness stand and testifies, a very pertinent and proper question is: Did he have opportunity to know the facts to which he testified? If he had such an opportunity he is in a position to tell about it. If he didn't have the opportunity, he is not in a position to tell about it. That is one of the rules that will govern.

Do you understand that, sir?

A Yes, sir.

Q Another rule is: Is the particular witness interested in the outcome of the case? Has he an interest on one side or the other that would cause him to favor one side or the other? And if a witness has an interest of that sort, that he would want to favor one side or the other, and you have a right to take that into consideration as to how much weight and credibility you give to that witness. Do you understand that, sir?

A Yes, sir.

Q And you will apply that rule?

A Yes, sir.

Q Another standard that you may apply is the reasonableness of the story that the witness tells, or, on the contrary, its unreasonableness, the probability of his story or its improbability. You may take those things into consideration when you judge the witness as to the weight and credibility you are to give to his testimony. You are prepared to do that, sir?

A Yes, sir.

Q And similarly, you may apply to all of the witnesses all of your own experiences in life in order for you to ascertain, to find out, to determine what the truth is in this case. You are prepared to do that, sir?

A I am.

Q There are, generally speaking, two types of evidence: Direct evidence and circumstantial evidence. You are familiar with those terms, are you not?

A Yes, sir.

Q And under our law, both types of evidence are admissible and may be considered by the jury. The Court will so tell you. The Court will also tell you what guides you are to use with respect to direct and circumstantial evidence, and you are prepared to follow the Court's instructions, are you not?

A I am.

Q Now, I believe you mentioned that you had heard something

about this case. What did you mean by that?

A At work there was always conversation.

Q Conversation of other people?

A Of other people around me, surrounding me. We work close together, one next to one another.

Q Well, did you ever personally express any opinion one way or the other about this case?

A No, I did not.- I always said that I don't want to discuss a case which is not finally judged by the proper authority or the proper jury, and so forth. I cannot give an opinion on something which is not clearly defined.

Q In other words, you are one of those citizens who believes that a case should be tried in court?

A I do.

Q And decided on the basis of the evidence in court and upon the basis of the law that the Judge will give you and on nothing else?

A I certainly do.

Q Well, that is right, sir. And you will decide the case solely on the basis of the evidence, the testimony you get from the witnesses and on nothing else, is that right?

A Yes, sir.

Q The Court will tell you that what the lawyers say either now or during the proceedings or when they are talking to the jury is not evidence in the case. You understand that,

sir?

A Yes, sir.

Q And so you will pay no attention to any newspaper articles that may have occurred and you may have seen, you will pay no attention to that, is that right?

A That's right.

Q You will pay no attention to any discussions that might have been had in your presence, is that right?

137 A Yes, sir.

Q You will pay no attention to the talking that goes on here that does not come from the witnesses from the witness stand, is that right?

A Yes, sir.

Q And you will not regard as evidence anything that the lawyers may say during the course of the proceedings, whether it is now, during the proceedings, or in talking to the jury, is that right?

A That's right.

Q You will be guided solely by the testimony of the witnesses, by the law given by Judge Blythin, and nothing else, is that right?

A Yes, sir.

Q You realize, of course, the seriousness of this type of a case where a person is charged with first degree murder, do you not?

A I do.

Q You realize, of course, that upon proper proof, the death penalty may be imposed if the jury finds this defendant guilty?

A I do.

Q And you realize it is a very important matter, important to the defendant, his lawyers, the lawyers here representing the State, and the jury, it is important to all, and it is important to the State of Ohio?

A Yes, sir.

Q Are you prepared, sir, to assume that responsibility?

A Yes, sir.

Q And to decide this case solely upon the basis of the evidence and the law, sir?

A I am.

Q And without any bias or prejudice one way or the other?

A I am.

Q And without any sympathy for the defendant, his family, or anyone else?

A I am.

MR. DANACEAU: Pass for cause.

THE COURT: This is Mr. Garmone of counsel for the defense. He would like to put a few questions.

EXAMINATION OF PROS. JUROR JOSEPH A. KACZMAREK

By Mr. Garmone:

Q Mr. Kaczmarek, you are being examined at this time to determine your qualifications to sit as an alternate juror in this matter.

Now, because of the fact that you will --

THE COURT: Mr. Garmone, perhaps I will or you may explain to him what is meant by an alternate juror.

MR. GARMONE: Would you want to do that, Judge?

THE COURT: Yes.

We have here twelve jurors and that constitutes what we usually refer to as a legal jury in this State. This case may take some little time to try, and we never know what happens to human beings, so one may have something very serious happen in the family or somehow or other and be crippled during the progress of the trial, so we empanel one or two additional jurors, who, if anything happens to one of the regular jurors, will take the place of that juror. The alternate juror sits here just as do the other jurors and listens to all of the evidence so that he will be in

the same position as all the other jurors are if he should be called upon to render the service.

MR. GARMONE: Thank you, your Honor.

PROS. JUROR KACZMAREK: Thank you.

By Mr. Garmone:

Q You won't, because of the fact that if you are chosen as an alternate juror, lose any interest in the facts that will be testified to in this case, will you, Mr. Kaczmarek?

A No, sir.

Q You will give them the same careful attention as though you were sitting within the jury box with one of the other twelve ladies and gentlemen?

A Yes, sir.

Q You will treat your responsibility with the same degree that these other ladies and gentlemen will, is that right?

A Yes.

Q Now, there have been many questions asked of you, whether you feel you can be fair and impartial. As Sam Sheppard sits here at the trial table, do you now presume him to be innocent?

A Yes, sir.

Q And will you, if you are instructed by the Court, continue to give him that presumption of innocence until such time that the State convinces you beyond a reasonable doubt of

his guilt?

A Yes, sir.

Q As Mr. Danaceau stated, the charge set out in the indictment constitutes first degree murder. The mere mention of first degree murder gives it a serious atmosphere.

Now, does the fact that the Grand Jury of this County returned an indictment against Sam Sheppard raise any presumption in your mind as to his guilt?

A No, sir.

Q The burden of proof necessary to convince you beyond a reasonable doubt of this young man's guilt is incumbent upon the State of Ohio; that is their responsibility and their obligation in this case, Mr. Mahon, Mr. Danaceau, Mr. Parrino. That burden never changes or switches or shifts from their side of the table to the side of the table that Sam Sheppard sits on.

Now, Judge Blythin will tell you that that is the rule of law that you are to follow. Will you subscribe to that rule?

A Yes, sir.

Q Now, on the element of proof or the degree of proof, the Court in his charge will define to you what beyond reasonable doubt is. Will you accept his definition?

A I will.

Q And take only his definition on that particular subject

and not incorporate any ideas that you may have regarding it?

A I will.

Q An indictment that charges first degree murder, Mr. Kaczmarek, sets out that a person unlawfully, purposely and of deliberate, premeditated malice killed another. His Honor will say to you as a matter of law that before you can be convinced beyond a reasonable doubt of this young man's guilt consistent with the language alleged in the indictment, that it is incumbent upon the State of Ohio to prove beyond a reasonable doubt each one of those elements or those things that are set out in the indictment. Do you follow me?

A Yes, sir.

Q And should the State fail to convince you beyond a reasonable doubt or supplying to you testimony sufficient to convince you beyond a reasonable doubt as to each and every essential element set out in the indictment, would you hesitate in returning a verdict of not guilty?

A I would not hesitate.

Q The Court will say to you, also, Mr. Kaczmarek, that it is not, only necessary for the State of Ohio to prove one or two or three of those allegations, but they must prove them all, and unless they prove them all, then you, as a juror, would be obligated to return a verdict of not guilty. Do you subscribe to that theory of law?

A I do.

Q Mr. Danaceau covered thoroughly the question of facts, and when we talk about facts we talk about statements or testimony that you will hear from witnesses in this courtroom, and you will be guided only by the statements that you hear in this courtroom, will you not, in the determination of this matter?

A Yes, sir.

Q You won't permit any outside influence to creep into your mind or become part of the picture that you hear in the courtroom, will you, Mr. Kaczmarek?

A I will not.

Q You are the sole judge of the facts. That is an authority granted you under the law. The Court can't interfere with it, I can't, the gentlemen on this side of the table cannot interfere with it. You have a right to listen to these facts, weigh them with the yardstick that you choose to weigh them with, and determine in your mind whether they are sufficient to convince you beyond a reasonable doubt of this young man's guilt.

Should you, after hearing all these facts, and you apply your yardstick to them, be convinced that the State has failed to make a case against Sam Sheppard, would you hesitate in joining with your fellow-jurors in returning a verdict of not guilty?

A I would not hesitate.

Q You did say just a few minutes ago in response to one of Mr. Danaceau's questions about never having expressed an opinion because you felt that a man is entitled to a fair hearing before judgment, is that right?

A That's right.

Q However, have there been some opinions expressed to you by your fellow-workers about Sam Sheppard? ✓

A I think there was a mixture of all sorts of -- I couldn't--

Q I wouldn't want to know --

A I couldn't tell what the details are, but there were ✓
opinions.

Q There were opinions expressed. You don't need to tell me what they were because I am not entitled to know, and I don't want to know. ✓

Well, do you think that those opinions that were expressed to you by people that you have worked with for sometime would have any influence in your judgment in this case? ✓

A No, sir.

Q You did say that although you did not express an opinion, that you had reserved an opinion.

A In that respect that I would not - I would not accuse anyone of anything unless I knew all the facts.

Q All the facts?

A Yes.

Q So it was for that reason that you made no expression of opinion, you didn't know all the facts, is that right?

A That is true.

Q Now, where is your brother employed, Mr. Kaczmarek, your brother Edward?

A At the Star Baking Company.

Q And Jerome is at the Cleveland Pneumatic Tool Company?

A Yes, sir.

Q And do they live at home with you?

A No, sir.

Q Are they married?

A They are.

Q And do you know what, if any, employment or employment their wives may have? Edward's wife, is she employed?

A She is not, nor is Jerome's.

Q Is Jerome's wife employed?

A No, she is not.

Q Do they have grown children?

A No. My brother Ed's family, they are childless, and Jerome has a young 17-month-old boy.

Q He is just a baby yet, is that right?

A Just a baby.

Q Now, do you know anybody that is connected with the police department of the City of Cleveland?

A No, sir.

Q This is Sergeant Lockwood here. He is a member of the police department. Had you ever seen him prior to coming in here a week ago Monday?

A No, sir.

Q That was the first time that you had ever been introduced to Mr. Lockwood, is that correct?

A Yes, sir, unless the gentleman was here when we were sworn in that first day.

Q He was here during the period that you were sworn in.

A That was the first time.

Q And Inspector McArthur, who is not present in the courtroom now, he was here when you were all sworn in.

A I remember the name.

Q Do you know him?

A No, sir. That was the first time I heard the name.

Q First time you had ever seen him?

A Yes, sir.

Q Do you know anybody that is connected with the Coroner's office?

A No, sir.

Q Dr. Gerber?

A No, sir.

Q Dr. Adelson?

A No, sir.

Q Dr. Sunshine or Dr. Chamberlain?

A No, sir.

Q Would you, because of the fact that a man is a police officer give his testimony greater weight than you would a layman?

A No, sir.

Q You would treat them both alike?

A Yes, sir.

Q Would you, because of the fact that a doctor is connected with the Coroner's office, be apt to give his testimony more consideration than you would a doctor who has no association with the Coroner's office?

A I would not.

Q Now, Mr. Kaczmarek, considering your work background and your educational background, you appreciate full-well the rule of fair play, don't you?

A I certainly do.

Q And you know that regardless of what people may write and what people may talk about on the radio and what you may accidentally view on television, are expressions or thoughts that shouldn't creep into a trial of this sort, if you are chosen as a juror, is that correct?

A I will not allow it to creep in.

139 Q That is not part of the fair play that you and I have a mutual understanding on, is it?

A Yes, sir.

Q Now, the only thing that Sam Sheppard is interested in is fair play, a fair trial, one that has no partiality, one where preconceived ideas don't creep into the picture that will be drawn by the facts that you will receive in this courtroom, and you are satisfied that you can treat Sam Sheppard in that manner, are you?

A Yes, sir.

Q Now, in some of the articles that you read in the paper, do you remember reading about a young lady identified as Susan Hayes?

A I do remember the name.

Q And in one of those articles there was attributed to Susan Hayes a statement that was widely publicized by the newspapers of our community that she at sometime or another had been intimate with Sam Sheppard. Do you recall that article?

A Yes, sir.

Q Now, having knowledge of that fact at this time would that cause you to have any ill-will or cause you to develop any prejudice against Sam Sheppard?

A No, sir.

Q You wouldn't permit the knowledge of that statement by with Susan to carry/you into the jury box any ill-feeling toward this young man, would you?

A No, sir.

Q Now, I could, Mr. Kaczmarek, ask you a good many more questions, but I think in the main between the Judge, Mr. Danaceau, and myself, we have covered the subject matter somewhat thoroughly.

I ask you now -- and your responsibility will be just as important and just as great as the responsibility of the other twelve people that are seated here, because, as Judge Blythin said to you, sometime during the course of a long trial maybe one of them will become ill and not be able to continue on in their performance as a juror in this case, and then it will become your obligation to take their place.

Now, having that in mind, and having in mind, if you are chosen as an alternate juror in this matter and later substituted into the jury box where the authority will be given you to judge the innocence or guilt of a fellow-citizen, and in addition thereto the authority to determine, after all the facts have been heard and all the law has been given to you by Judge Blythin applicable to those facts, whether there should be taken away the life of a fellow-citizen -- do you now know of any reason that we haven't developed by your examination that would disqualify you in accepting that responsibility and that obligation?

A I don't know of any reason.

Q You can take your seat as a member of this panel and give Sam Sheppard the same kind of fair play that you, yourself,

would want to receive if, by the Grace of God, he took his place in that jury box and was asked to judge you or some member of your family seated in this chair?

A Yes, sir.

MR. GARMONE: Thank you very much.

We pass, your Honor.

MR. PARRINO: I think, if the Court please, it is about time for a recess. May we have a recess at this time?

THE COURT: Let's dispose of this gentleman, if we can, now, if he is to be disposed of. If not, let's settle him, if we can.

MR. PARRINO: If the Court please, the State will excuse Mr. Kaczmarek at this time. ✓

THE COURT: Thank you very much, Mr. Kaczmarek; you will be excused, sir.

(Thereupon Prospective Juror Joseph A. Kaczmarek was excused.)

THE COURT: Ladies and gentlemen, we will have a few minutes' recess at this point.

Please do not discuss this case in the recess.

(Thereupon a recess was taken.)

(AFTER RECESS:)

Thereupon JOHN C. SMITH, being first duly sworn, was examined and testified as follows:

EXAMINATION OF PROSPECTIVE JUROR JOHN C. SMITH:

BY THE COURT:

Q Your name, sir, is John C. Smith?

A Yes, sir.

Q And you live at 1128 East 168th?

A Yes, sir.

Q How long have you lived there, Mr. Smith?

A Going on four years now.

Q Where did you live before that?

A 14302 Westropp Avenue.

Q Westropp?

A Yes, sir.

Q That's in the northeast section, too?

A Yes, sir.

Q And are you a married man?

A Yes, sir.

Q Have you any children?

A Yes, sir; two.

Q How old are they?

A I have a son five and a daughter two.

Q And do your wife and yourself and your two little ones constitute the entire household?

A Yes, sir.

Q You have no one else living with you?

A No, sir.

Q What is your occupation or profession?

A My title, sir, is District Service Supervisor for Towmotor Corporation.

Q For what?

A Towmotor, a fork lift truck manufacturer.

Q District Supervisor for the Towmotor Corporation.

T-o-w-m-o-t-o-r, I guess?

A That is correct.

MR. CORRIGAN: What is that?

MR. GARMONE: Lifting devices?

PROSP. JUROR SMITH: Yes, sir.

MR. MAHON: They manufacture lift trucks.

Q Where is your place of business?

A 1226 East 152nd Street.

Q How long have you been connected with Towmotor?

A Well, nine years. This coming May will be 10 years, May 21st.

Q Have you ever served as a juror before?

A No, sir, I have not.

Q Have you ever been a witness in a case at any time?

A No, sir.

Q Do you know any of these gentlemen around the trial table who were named here a week ago last Monday morning?

A No, sir, I do not.

Q Do you know the County Prosecutor, Mr. Frank T. Cullitan, or any member of his staff?

A No, sir.

Q Do you know the sheriff or any member of his staff?

A No, sir.

Q Or the coroner, Dr. Gerber, or any member of his staff?

A No, sir, I do not.

Q When I speak of family, I would like to include your wife's as well as your own, if I may. Are there any members of your family who are members of any Police Department or any law-enforcing agency anywhere, if you know?

A No, sir, to my knowledge there is not.

Q And has there been visited at any time upon any member of your family violence at the hands of another, if you know, an attack or robbed?

A No, sir, not to my knowledge.

Q I take it that you have heard of this Sheppard case? ✓

A Yes, sir, I have.

Q By what means, generally? ✓

A Well, I have heard of it by radio, by paper, and naturally, ✓
I have heard --

Q People talk?

A People talk, yes, sir.

Q Have you ever expressed to anyone at any place an opinion as to the guilt or innocence of Dr. Sheppard?

A No, sir, I have not.

Q Do you have an opinion now as to the guilt or innocence of Dr. Sheppard?

A No, sir.

Q Do you understand that Dr. Sheppard, even though indicted and charged with murder in the first degree, is still presumed to be innocent and is to be presumed to be innocent until all the evidence is in and the jury is convinced at that time that he is guilty beyond a reasonable doubt?

A Yes, sir, I understand that.

Q And you understand, too, that it is the function of the jury to decide that question of his guilt or innocence?

A Yes, sir.

Q And that they are to do so by weighing the evidence that is produced in this court under the rules which the Court will state as to the law of the case?

A Yes, sir.

Q And do you understand, too, that all people are on the same level precisely as witnesses in a court of law, without regard to whether a person is a professional man, common laborer, a man with a title, public official or what, that his evidence

is to be weighed on the same basis precisely as the evidence of any other person at the outset? There will be one test and one only, that is, what is the truth and what is not the truth. You understand that?

A Yes, sir, I understand that.

Q Have you any objection in a proper case to capital punishment?

MR. CORRIGAN: I object.

THE COURT: Overruled. Exception.

A No, sir, I have no objection.

Q Have you at any time since the 4th day of October of this year received any communication by any means at all from anyone that could be directed or have some reference to this case?

A Well, sir, if you would be referring to this letter that several of the prospective jurors received, I did receive a letter of some sort.

Q When did you receive it?

A Well, I don't recall the date I received it. I had intended to see if I could find it and bring it down with me today, but --

Q About when was it? Was it last week or the week before, the week before that, or when? Was it before you came here or after?

A It was before I came here, yes, sir. Approximately a week,

a week and a half, I would say.

Q I will show you the Court's Exhibit A-9 and A-10. Will you be good enough to take those and look at them and see if you can tell whether what you received is the same as that?

A Well, sir, I did not read this letter, but I did see this picture here and it looks identical.

Q And you didn't read the letter?

A No, I did not.

Q But is it your judgment that it was a document like that?

A I would say it is, yes, sir, or was.

Q Do you know who sent it to you?

A Well, I don't recall the person's name that was on the letter.

Q No. Do you know who sent it to you?

A No, sir.

Q Now, you mentioned a person's name. What do you mean by that?

A Who signed the letter, the signee of the letter. I don't remember the name.

Q Did you see anything in the newspapers about it?

A Yes, sir. I read in the newspaper where Mayor Celebrezze and several other people had received one of these letters.

Q I take it that you don't know who sent it to you?

A No, sir, I do not.

Q Have you any notion at all or have you entertained any such

notion at any time that Sam Sheppard's family or any of his friends had anything to do with it?

A No, sir, I have no reason to believe that any of those people had anything to do with it.

Q All right. The Court will say to you that we know who sent it to you, and that the Sheppard family and their friends had no connection whatever with it.

Would the fact that you received that communication have any bearing at all upon your judgment here?

A No, sir, it would not.

Q The State, to our left here at the trial table, and the defendant and his counsel, on the right side of the trial table, our right side of the trial table, want one thing and one thing only, and they are entitled to that, and that is a jury of citizens who are absolutely fair and impartial and who will forget everything they have read and known and heard about this case, and who will be guided in their judgment entirely by what they hear as evidence in this courtroom under the instructions of the Court as to the law.

Is it your belief that you could sit here and listen to the evidence and the instructions as to the law and so be guided by those entirely in arriving at a conclusion in this case?

A I believe I could, sir.

Q Are you sure you could?

A I am sure I could.

Q Do you have any notions at all now that you could not entirely disregard and start anew to listen to evidence?

A No, sir, I don't know of any reason why I could not do just that.

THE COURT: This is Mr. Parrino,
Assistant County Prosecuting Attorney, and he would
like to put a few questions to you.

EXAMINATION OF PROSPECTIVE JUROR JOHN C. SMITH:

BY MR. PARRINO:

Q Mr. Smith, after having waited all this time you finally made it here to the witness stand to serve as a prospective juror in this case. Now, let me say this to you as I begin this questioning. You see 12 people here seated in this box. They will be the jury in this case, Mr. Smith. They have been chosen and sworn as jurors in the case of the State of Ohio versus Sam Sheppard.

Now, at this time we are undertaking to select either one or two alternate jurors, who will also sit in this courtroom with the jury of 12 throughout this entire trial. You understand that?

52 A Yes, sir.

Q That your duties as an alternate juror during the course of the trial will be exactly the same as these other 12 people

that sit here in that you will listen to the evidence, you will come and go from this courtroom with them, you will be in their company throughout this entire case. You understand that?

A Yes, sir.

Q Now, in the event, however, in the event that there should be something unforeseen occur during the course of this trial, either illness or because of some event that might occur in the homes of any of these 12 people, some unfortunate event which we, of course, hope does not occur, but we do know occasionally does occur, then in that event, it will be you, as the first alternate juror, who will be seated in the place of that person who is unavoidably absent, and serve as a member of the original 12 in this case. You understand that, do you?

A Yes, sir.

Q So if that unforeseen event does not occur, that is to say, if everything goes along to the completion of all of the evidence and the Court's charge, and the original 12 members of this panel are still here, then at that time the one or the two alternate jurors that are being selected at this time will be excused by the Court and you will not participate in the final deliberations of the jury. Do you understand that?

A Yes, sir.

Q So in a manner of speaking, then, we are in this case carrying a spare or two spares to sit in in the case of any unforeseen event. You understand that, do you, sir?

A Yes.

Q Now, Mr. Smith, you say you work for the Towmotor Company?

A Yes, sir.

Q For approximately nine years?

A Nine years, approximately 10.

Q And you are a supervisor there?

A Yes, sir.

Q Now, just what exactly does your line of work include?

A I work for the Service Department, and my job is field contact.

Q Do you travel about from place to place?

A Yes, sir. I hold the responsibility of customer relationship and also to keep our customers properly informed on our new improvements, and so forth, and my duties are many from a service angle.

Q And do you have any men or women that work under you, Mr. Smith?

A No, sir, not directly. In other words, we have men in the field as mechanics, and it is my job to see that our customers are properly taken care of. I also sell service and anything pertaining to service to the equipment after the customer once has it in his operation.

Q Of what does your territory consist?

A Well, my territory starts at East 54th Street and Lake Shore Boulevard, 55th Street, rather, over to Broadway, Broadway to Route 8, Route 8 through Akron, Canton, down as far as Coshocton, Ohio, and everything west to Elyria and back into Cleveland -- and Lorain, I should say.

Q Have you ever served as a juror before, Mr. Smith?

A No, sir.

Q Have you ever served as a witness previously?

A No, sir.

Q As a juror in this case, you will be called upon to perform certainly what will be one of the most outstanding serious acts of your life. You understand that?

A Yes, sir, I do.

Q And we are here in an important trial of the State of Ohio versus Sam Sheppard. It is important to the defendant, certainly, and it is important to the State, and it is important that we receive and have on this trial 12 people who will fairly and justly hear both sides of this case in an effort to render a just verdict. And that is the purpose of this question: Now, sitting in the jury box, as you will throughout this trial, even as an alternate, you will be in a position to listen to all of the testimony of the witnesses in an effort to determine what the evidence is and what the facts are, and should you be selected as an alternate

juror, I am sure that you will give to all that takes place in this courtroom your undivided interest and attention in an effort to determine specifically what the facts are; will you do that, please?

A Yes, sir, I certainly will.

Q And as you must appreciate, Judge Blythin, being the presiding person in this court, will direct all of these proceedings to insure to both sides a fair and an impartial trial. Is that your understanding of his role, sir?

A Yes, sir.

Q And Judge Blythin, in addition to that, has another job, and that will be at the conclusion of all of the evidence, after all of the mass of testimony has been completed, then he will state to you and other members of the jury what the specific rules of law are that will apply to this case.

When he does that, of course, you appreciate that it becomes your duty, then, to accept what he says to be the law and set aside any impressions or previously formed opinions that you may have and take and accept strictly what he says to be the law as being the law in this case. Do you feel that you could do that?

A Yes, sir, I feel that I could.

Q And in any case, Mr. Smith, one of the important functions of a jury is to search for the truth, and in the position of searching for the truth, of necessity, of course, you will

have to listen to the testimony of many witnesses. And you folks that sit in the jury box are the judges of the witnesses. In other words, it is for you to decide on the basis of what these witnesses say as to who you shall believe and who you shall not believe. Do you understand that?

A Yes, sir.

Q And no one here can interfere with your duty in that regard. That is to say, we cannot tell you who to believe, the prosecution, and the defense cannot tell you who to believe, and neither can Judge Blythin. That is your job as a juror in this case.

A Yes, sir.

Q And will you look at your service as a juror in that light?

A I certainly will.

Q Now, in judging or determining how much value or consideration you will give to all of the witnesses that testify, I mean all of the witnesses, the State's witnesses and the defense witnesses, Judge Blythin will state to you that you may take into consideration whether or not a particular witness is telling a reasonable story, a probable story. If he says that you may take those factors into consideration, will you follow his instruction in that regard?

A Yes, sir.

Q Now, if Judge Blythin should state to you that as a juror in sizing up a witness you may also take into consideration

the interest or the lack of interest that a witness may have in this case, will you follow his instruction in that regard?

A Yes, sir.

Q And will you keep in mind, sir, that a person who may have an interest in the case, that that might in some way at times tend to affect or color his judgment as he testifies? Will you keep that in mind?

A I will remember.

Q Now, then, when you serve as a juror, you will keep in mind the rules as to how you will judge, how much consideration you will give to a witness as those rules are given to you by his Honor, Judge Blythin? Will you do that, please?

A Yes, sir.

Q Taking into account probabilities, the lack of probabilities, the reasonableness, the unreasonableness, the interest or the lack of interest of all those who testify, will you do that, please?

A To the best of my ability.

Q And will you take into account whether or not that person who testifies on a particular subject was in a position to know and to accurately relate that which he is testifying about?

A Yes, sir.

Q In other words, if a person is in a position to see first-hand something that has happened, he may be in a position to

tell you a little bit more accurately about that particular event than someone else who is not in that position, do you understand that?

A Yes, sir.

Q And judging from your answers that you have given to Judge Blythin here previously, Mr. Smith, you have no objections to capital punishment, do you?

A No, sir.

Q So that in a proper case properly proven you feel that you could enter into a verdict that might take a human life, is that correct?

A Yes, sir.

Q And you are willing at this time to accept the full responsibility of such an undertaking, are you?

A Yes, sir.

Q Now, if you should serve as a juror, of course, if you are not convinced beyond a reasonable doubt of the defendant's guilt, as an honest and reasonable person, you will find him not guilty? Is that the position you take?

A Yes, sir, that is the position I'll take.

Q And, on the other hand, if after listening to all of the evidence, both the direct evidence and the circumstantial evidence, you are as an individual and a member of the jury convinced beyond a reasonable doubt of the guilt of the defendant, would you then hesitate to return a verdict of

guilty?

A I would not.

Q Now, as I have stated to you in this case, certainly, we will have two types of evidence, direct evidence and circumstantial evidence. Do you have some understanding of what is meant by those terms, Mr. Smith, in a general way?

A I would say circumstantial evidence is -- I understand what circumstantial and direct evidence is, but to put it in words --

Q It is a little hard to describe.

A A little difficult, yes, sir.

Q It is hard for lawyers, too, especially for me. But I say this to you, that in judging this case, Judge Blythin will state to you what constitutes direct evidence. He will tell you what it is and he will describe it for you in law. Will you follow his instructions as to direct evidence?

A Yes, sir.

Q And similarly, of course, he will describe for you what constitutes circumstantial evidence. And will you take his description and charge on that subject and follow it in this case?

A Yes, sir.

Q So on both factors, then, on direct and circumstantial evidence, you will listen to the Judge as to what he has to say on how you shall use them in this trial and apply them

to the case; will you do that, please?

A I certainly will.

Q As the result of what you have read about this case, sir, and what you have heard and what little you have talked about it, you, yourself, here today have not formed an opinion one way or the other as to the guilt or the innocence of this defendant? Is that the way you feel?

A I have not formed an opinion.

Q You feel that coming into this courtroom it is perfectly possible for you to sit here with an open mind and hear evidence and hear law and come to your decision on the basis of what you hear strictly and solely in this courtroom, setting aside from your mind everything else that has come to your attention? Do you feel that you could do that?

A Yes, sir, I do.

Q You realize, of course, that among the many people who will testify in this case, they will come from various walks of life. We will have doctors, professional men of various kinds; we will have public officials, the coroner, police officers, and Judge Blythin will state to you that you will not give any more credence or value to the testimony of one witness over another witness merely because he has a title of some kind or another. Will you follow the Court's instructions in that regard?

A Yes, sir.

Q In other words, you will judge the testimony of witnesses by what they say, by how they say it, by their ability to accurately relate what they have seen or know about the case, is that correct?

A That's correct, to the best of my ability.

Q Without any particular regard to title or lack of title of those that testify, is that correct?

A That is correct.

Q You know, of course, that we cannot in these cases in criminal court -- rather, you, as a juror, cannot permit your deliberations, insofar as is humanly possible, to be affected by prejudice or bias or sympathy for or against anyone. That is a fair statement, is it not, sir?

A Yes, sir, that's a fair statement.

Q So that so far as you are able to do so in your heart and in your mind, will you let prejudice enter into your verdict in this case?

A No, I will not.

Q And will you let bias against anyone enter into your verdict in this case?

A No, sir.

Q And on the same hand by the same token, will you let sympathy for anyone enter into your verdict in this case?

A No, sir.

Q You realize, do you, Mr. Smith, that in these courts of

American justice, that all persons who come into this courtroom are judged on the same basis? Do you appreciate that?

A Yes, sir, I appreciate that.

Q That all defendants, regardless of who they may be, or their rank in life or the modesty of their station in life, their titles or lack of titles, whoever they are, when you come into a courtroom everyone receives equal justice; do you appreciate that?

A Yes, sir.

Q And do you appreciate, also, that we gentlemen who serve on this side of the table representing the prosecution who, in turn, represent the State of Ohio in these proceedings, you appreciate, of course, that we also are entitled to a fair and an impartial hearing of this case, do you not?

A Yes, sir.

Q So without favor, fear, bias, prejudice, sympathy, you, as a citizen in this community, will enter into this courtroom to enter justice for both parties in this case, is that the way you feel, sir?

A That's the way I feel, sir.

MR. PARRINO:

Thank you very much.

Pass for cause.

THE COURT:

That is Mr. William J.

Corrigan for the defense. He would like to ask you a few questions.

EXAMINATION OF PROSPECTIVE JUROR JOHN C. SMITH:

BY MR. CORRIGAN:

Q Your name is John Smith?

A Yes, sir.

Q That is a rather famous name.

A Thank you, sir.

Q Mr. Smith, do you recognize Dr. Sheppard?

A Yes, sir, I recognize Dr. Sheppard.

Q This is Mr. Petersilge that is associated with me in the defense of this case. There are a couple of others, but they seem to have gone. There is Mr. Garmone. You have seen him, have you?

A I did see him the first day I was in this courtroom.

Q You don't know him?

A I wouldn't know him if I met him in the hallway.

Q Were you born in Cleveland, Mr. Smith?

A No, sir, I was not.

Q Where were you born?

A In Scottsboro, Alabama.

Q And were you educated in Scottsboro, Alabama?

A No, sir.

Q Pardon?

A No, sir. I was educated in Tennessee.

Q Where?

A In Tennessee.

Q And where in Tennessee?

A Newport.

Q What college is there?

A I didn't go to college.

Q What?

A I didn't go to college.

Q That was high school?

A No, sir. I didn't go to high school. I didn't complete the ninth grade.

Q I see. When did you come to Cleveland?

A My first trip to Cleveland was 1939, and again in '41, and I have been in Cleveland since '41.

Q Did you work in some other part of the country besides Cleveland?

A Well, I worked in Tennessee and I worked in Georgia.

Q And what?

A I worked in Tennessee and Georgia.

Q And what did you do there?

A Well, in Tennessee we lived on a farm. In Georgia I worked for the Peerless Woolen Mill Co. there as a dye boiler.

Q You started to work rather early in life?

A Yes, sir, I did.

Q And then in '41 you secured this position here in Cleveland, went with this company in Cleveland?

A Well, I worked for four companies in Cleveland. My first

job in Cleveland was with the Cleveland Container Corporation.

From there I worked --

Q What did you do at the Cleveland Container Corporation?

A I was a winding machine operator.

Q That's out on Euclid Avenue?

A No, sir. West 162nd Street and Barberton Avenue.

Q And then where did you go?

A I went to the Aluminum Co. of America, worked at their magnesium plant on Ivanhoe Road.

Q And then?

A From there I worked for the New York Central Railroad as a road brakeman. That was a short-lived job which didn't appeal to me, and I --

Q What kind of a job was that?

A Road brakeman for the New York Central Railroad.

Q Traveling between what points?

A From Cleveland to Bellefontaine and Columbus. Then I went to work for Towmotor Corporation, and I have been there, it will be 10 years this coming May.

Q It will be 10 years?

A This coming May it will be 10 years.

Q Your work carries you outside of the county, does it not?

A Yes, sir.

Q And you go south to Ashland?

A Well, sir, I have traveled south to Ashland, but that part of

the territory has been given to Toledo now and I no longer have that territory.

Q Did you have it last summer?

A Yes, sir, I had it last summer.

Q And what would be the western point of your territory?

A Lorain, Ohio.

Q And the easterly point?

A 155th Street, on the shop, the plant.

Q The plant here?

A Yes, sir, on east 152nd Street.

Q Now, you said that you did read about the case?

A Yes, sir.

Q And your work puts you in contact with quite a number of people, doesn't it?

A Yes, sir, it does, a lot of manufacturers.

Q Perhaps in a day you would speak to as high as a dozen people?

A That's very possible.

Q Now, you know that there has always been, ever since this happened, a tremendous amount of publicity about Dr. Sheppard? ✓

A Well, I would guess that there has been. I seen -- I take the Plain Dealer, the paper, and of course I have a radio, and I have heard it from time to time on the radio, and I have read about it from time to time in the Plain Dealer. ✓

Q Do you take the Press, also?

A No, sir.

Q Or the News?

A No, sir.

Q You just read the Plain Dealer?

A The Plain Dealer, that's the only paper I take.

6 Q Do you get a paper from some of the towns that -- your home town?

A No, sir.

Q Now, in going around in your territory, Mr. Smith, did you talk to people outside of the city about this case?

A I can't recall of ever having conversation with anyone on my job regarding this incident.

Q You don't recall anybody talking with you?

A Not while I was on the job, no, sir, as you asked me, no.

Q Out of the shop you come in contact with quite a number of people?

A Yes, sir.

Q Workmen, and so forth?

A Yes, sir.

Q Office associates?

A Yes, sir.

Q Did you ever hear it discussed there?

A No, sir, I can't say as I have. I might add that I very seldom read a complete article in the newspaper. I usually

read to where it says continued on such and such a page, and that's usually where I stop.

Q You don't turn the page?

A I never -- I mean, I am being honest and fair when I say this, I don't dig after it. I mean, I read so far, and if I hit onto it again, I might take it up again, and again I might not.

Q Now, you do recall that you read about this case?

A Yes, sir.

Q Did you read that Dr. Sheppard is accused of killing his wife in her bed?

A Well, sir, I wouldn't say that I read it or heard it on the radio, but I do recall something -- I don't recall if that's the exact words or not, that he was accused of taking his wife's life in her bed, but something to that effect.

Q At least in her home?

A Yes, sir.

Q Now, as you travel along through the country on your trips, do you listen to the radio?

A Yes, sir.

Q And have you heard the comments of various radio commentators on this case?

A I have. I have heard the news. I don't know if you would call it comments of the radio commentators or not. I wouldn't say they were making comments on this subject, but I never made

it a point to remember what the broadcast actually said. I listened to the radio. If the newscast happens to come onto the station I am listening to, which is usually around 1300, I listen to it, but I don't make it a point to remember exactly what is said.

Q I suppose you are like I am, you listen to a broadcast and sometimes you forget about it unless somebody calls your particular attention to something that was said?

A That's absolutely right, sir.

Q Let me see if I can call your attention to something that was said that you may have heard. Did you hear that there was an attempt by the family of Dr. Sheppard and the lawyers of Dr. Sheppard to throw a roadblock around Dr. Sheppard to prevent the police from inquiring about the crime? Do you remember that?

A I can't honestly say I did, sir. When you mention this, it brings something about a rope they had stretched out there, if that's why you are trying to inquire about.

Q Threw a protective curtain around him?

A No, sir, I can't say that I heard that.

Q You didn't hear that?

A I can't say that I did.

Q And you have no impression of that kind now?

A No, sir.

Q Well, your name appeared in the newspaper that you were

summoned to be a juror. You know that?

A Yes, sir.

Q Was it discussed with you after your name appeared in the newspaper by anyone?

A The case, that is, or the story?

Q Yes.

A No, sir, it wasn't discussed with me. As a matter of fact, I didn't find my name in the paper. Some of the personnel in my office saw it and they called it to my attention.

Q Now, you said you read the Plain Dealer?

A Yes, sir.

Q Do you remember a cartoon on the editorial page of the Plain Dealer that had the head of Dr. Sheppard imposed upon an animal with a choker around his neck? Do you remember that cartoon?

A No, sir.

Q You don't?

A No, sir.

Q And indicating that he was hiding from the police, you don't remember that?

A No, sir, I don't.

7 Q Well, when this lady told you about your name being in the paper, was there any discussion about it?

A Well, I don't remember the exact words, but there was no discussion. It's just they might have said, "What did you do

to get your name in the paper?" Or, "How did you get your name drawn for this jury duty?"

And I probably answered, "Well, I vote," or something to that effect, but there was no discussion on the subject.

Q Did you make any expression that you were glad that your name was pulled?

A No, sir, I didn't make any expression that I was glad because, as a matter of fact, I was a bit dumbfounded because that's something different and new to me, and I was a little bit, shall we say, worried about it. In other words, I knew it would be a new adventure. Well, I didn't actually know what my feelings were at the time.

Q Do you have a television at home?

A Yes, sir.

Q Have you seen incidents connected with this case on television?

A Incidents?

Q Yes, any shots they have made in connection with the Sheppard case? There have been matters on the television for months. Now, did you see any of those?

A Yes, sir, I have seen some of them, but if you asked me to point out any individual incident, I wouldn't be able to do so. I have seen them.

Q Well, that was in your own home?

A Yes, sir.

Q And have you seen them since you were summoned as a juror?

A No, sir, I have not.

Q This was before?

A This was before.

Q In going to Ashland you drive out -- have you ever driven out the Lake Road?

A In going to Ashland?

Q Yes.

A No, sir, I have never driven out to Lake Road going to Ashland. I have driven out the Lake Road going to Lorain, Ohio.

Q And do you know where Sam Sheppard's house is? ✓

A I have seen his house, yes, sir. ✓

Q Pardon?

THE COURT:

He has seen his house,

yes.

Q You have seen his house?

A I have seen the house that had the rope around it, which I was told was his house. I have no way of knowing it other than that. ✓

Q Who told you it was his house?

A I read in the papers where he had a rope stretched around his house. I wouldn't be able to identify it as being his house if you took the rope down, unless you gave me the address and said, "Here's the address of his house," and then I would ✓

be able to.

Q You were told that there had been a rope put around Sam Sheppard's house, is that correct?

A I would say I read it in the paper, yes, sir. ✓

Q Read it in the newspaper?

A Yes, sir.

Q And then when you drove along there, you looked at the house?

A I could see the house, yes, sir.

Q The rope, as I understand, is around the trees that are in front of the house?

A Well, sir, I wouldn't know if it is around trees or staked out, because at the time I was driving to Elyria and Lorain and I didn't stop or anything because I kept right on going.

Q You have customers in Lorain?

A Yes, sir.

Q And your customers are people that -- what kind of people are your customers?

A Manufacturers of all types.

Q That use this machinery inside their plant?

A The material handling equipment, yes, sir.

Q And knowing that you had come from Cleveland and passed Sam Sheppard's house when you went to Lorain, did anybody talk to you about the fact that you had seen the house?

A No, sir.

Q They did not?

58 A No, sir. Surprisingly enough, I heard very little comment about this case through the different people that I called on. As a matter of fact, I can't recall anyone bringing it to my attention. I am surprised to hear some people say, "Well, that's all you can hear when you go someplace." It isn't true with me. I don't hear this every place I go.

Q People have stated to you that everywhere they went people were talking about it, is that correct?

A I have heard that statement made.

Q Talking about it in saloons and --

A Well, I don't know.

Q -- and clubs, and so forth?

A I don't know. I do drink, but I don't go to saloons. I go to mostly --

Q But you got the general impression in talking to some other people that everybody else was talking about it?

A Sir, I never got the opinion that they were doing that, but I have heard it said that different people -- I have heard people say, "It seems to be the topic of conversation."

But I say, I didn't find it true in my case.

Q Well, where were these conversations that you got the information that it was the general topic of conversation, where did they occur?

A Well, it could have occurred anyplace. It could have occurred

on the street. I wouldn't recall the actual time and place or the person that made the statement, but I do remember such statements being made, and being of no interest to me, I wouldn't make it a point to remember.

Q Did you in these conversations with anybody hear any stories that were told about Dr. Sheppard?

A No, sir.

Q Or any remarks reflecting upon him?

A No, sir, I can't say as I have, to be truthful.

Q Did you in reading these newspapers see the name of Susan Hayes?

A Yes, sir, I recall seeing that name.

Q Do you recall in reading the newspapers that she stated to a newspaper reporter, who later published the matter in the public press, that she had been intimate with Dr. Sheppard?

A Well, sir, I have either read that statement or heard it on the radio, one of the two. I wouldn't know exactly which. I might have read it and heard it on the radio, but I have heard that or I read it, yes, sir.

Q Does that fact, that you heard that, prejudice you in any way against Dr. Sheppard?

A No, sir, it does not.

Q It does not?

A No, sir.

Q Mr. Parrino has asked you about sympathy, the effect of

sympathy upon you. I suppose, Mr. John Smith, that you have the sympathy, ordinary sympathy that any normal human being has?

A I don't think there's any doubt about that.

Q You feel sorry for people that have misfortunes?

A Yes, sir, certainly.

Q Is there anything in that question that he asked you that would indicate to you, or do you think that we are in court here looking for sympathy?

A No, sir, I did not interpret it that way.

Q You know that Dr. Sheppard is entitled to justice under the American law?

A Yes, sir. That's something I am proud of, because I would expect justice myself.

Q And that's all we are looking for, is justice from the jury. You understand that?

A Yes, sir.

Q He also talked to you about direct evidence and circumstantial evidence. Do you remember that?

A Yes, sir, I remember.

Q And you understand generally what the difference is between direct and circumstantial evidence?

A Yes, sir, I do, I understand it.

Q Sometimes it is a little difficult to define it, but you know in your own mind what it is?

A Well, yes, sir.

Q Now, in the trial of a lawsuit there are, you might say, two particular divisions, and that is fact and law, and the Court will instruct you -- you believe in American law, do you?

A Yes, sir.

Q (Continuing) -- the Court will instruct you that when it comes to a question of fact, that the jury is the sole judge of the fact.

A The Court will instruct us to that extent?

Q The Court will instruct you as to that.

A Yes, sir.

Q I would illustrate the fact this way. I am wearing a blue suit. You notice that?

A Yes, sir.

Q Supposing a month from now the question of whether I was wearing a blue suit should be a matter in a lawsuit, and you would be called as a witness and somebody on the jury would be called as another witness, and you would testify that I was wearing a blue suit, while somebody else would testify, "No, he wasn't wearing a blue suit. He was wearing a gray suit," because I did have a gray suit on during this week, but we are talking about this particular day. Now, the question of whether I was wearing a blue suit or a gray suit would be a question of fact. Do you understand?

A Yes, sir.

Q And that would be entirely a matter for the jury to determine. Now you understand what a question of fact is?

9 A Yes, sir.

Q And we will have many, many, many of those things through the trial of this lawsuit. And this jury will be the judges of those facts. They will say whether this is so, or this is so, or this is so, or this is not so, and nobody can interfere with that. Now, that is one phase of a lawsuit over which the jury has complete control.

Now, the other phase of a lawsuit is the law. That is reposed in the hands of the Judge, Judge Blythin in this case, and he, for instance, will tell you what murder in the first degree is under the law, what manslaughter is, what various things are, what the rules are that have been established by time and experience. And the law further is that a jury must abide and follow the law given to them by the Court. Now, will you?

A Yes, sir, I will abide by the Court's ruling.

Q In other words, you won't apply any rules of your own?

A No, sir.

Q In regard to what the law is?

A No, sir.

Q For instance, first degree murder, the Court will tell you, is that whoever purposely, deliberately and with premeditated

malice -- unlawfully, purposely and deliberately with pre-meditated malice kills another is guilty of murder in the first degree. That's the law. Will you follow that as being the law of first degree murder?

A Yes, sir.

Q In other words, you won't adopt any system of your own and say, "Well, that's too much. First degree murder shouldn't include all those things"?

A No, sir. I don't think I am capable of changing the rules of the Court. I might voice my opinion, if I differ, but I don't think I would be able to institute any rules of my own.

Q No. I want to know whether you will follow the rules as Judge Blythin gives them to you and not adopt some of your own?

A Yes, sir, I will follow the rules to the best of my ability.

Q Now, in first degree murder or in this -- this man is indicted. Did you read in the paper or did you hear over the radio that Marilyn Sheppard was killed as the result of a number of blows rained on her head?

A I believe, sir, the report I heard said by -- didn't know for sure whether they said head or body, but I believe it says --

Q What is that?

A I believe the report I either heard or read used the word body instead of head.

Q The body?

A Yes, sir.

Q I see. Well, now, just take this situation that you are confronted with, Mr. Smith. You are here in Court, and here is Dr. Sam Sheppard. He is indicted for murder in the first degree, for killing his wife. Does that fact, that he killed his wife -- or, is charged with killing his wife, and the fact that he is indicted for murder in the first degree, raise any presumption in your mind at this time that he is guilty of that crime?

A No, sir, it does not.

Q I will go back now for a moment to circumstantial evidence and the rule that the Court will give you on circumstantial evidence. You understand that before the prosecution or the State is entitled to a verdict of guilty, that they must prove by evidence to you beyond a reasonable doubt that this man is guilty. You understand that, don't you?

A Yes, sir, I understand that.

Q And if the Court says to you that where reliance is placed for conviction on circumstantial evidence, that the facts and circumstances, all the facts and circumstances, when taken together, must be so convincing that they are not reconcilable with Sam Sheppard's claim of innocence, and that those facts and circumstances taken together must admit of no other supposition except his guilt -- do you understand that?

0 A Yes, sir, I do.

Q And if that charge is given to you, will you apply that rule of law to circumstantial evidence?

A I believe I would be compelled to do so.

Q What is that, Mr. Smith?

A I say, I believe I would be compelled to do so under the Court's rulings.

Q Well, that's the correct answer for a good honest American appearing in this courtroom. You will follow the charge of the Court?

A This is after the evidence has been presented, correct?

Q What is that?

A This is after the evidence has been presented?

Q Yes. That's the first thing we do, we present all the evidence, and then when we get through with the evidence, you hear all the evidence, and then Judge Blything gives you the rules.

A Yes, sir; I will follow the rules. I think we discussed that before.

Q I am just anticipating what he may say to you so that I see if you will agree to follow the rules that he will give you at the end of the evidence.

Now, is there anything that occurs to your mind that I haven't asked you about?

A That you haven't asked me about?

Q Yes, or that Mr. Parrino has not asked you about?

THE COURT:

What Mr. Corrigan means

is: Is there anything that occurs to you now that he hasn't questioned you about that might affect your judgment in this matter?

A No, sir. I was trying to think. I don't believe there is anything that I can remember that he asked me that you haven't similarly asked.

Q There will be police officers testify here. You have done no police work, have you?

A No, sir.

Q Any members of your family done police work?

A No, sir.

Q There will be police officers testify here. We may have some testimony that will contradict those police officers, and the question of who the jury will believe will be entirely within their province. But would you give more credit to the testimony or more weight to the testimony of a police officer than you would to an ordinary citizen solely because he is a police officer?

A Well, sir, I believe the way to put that is I would have to hear the testimony of both parties under oath and then draw my own conclusion.

Q But what I mean, you know, sometimes men and women do give more weight to the testimony of a police officer because of

the fact that he occupies that position than they would to an ordinary person, and they give it just because he is a police officer.

A I wouldn't do that myself just because he is a police officer. I will try to treat each individual equally.

Q And that is true of any public official?

A Yes, sir.

Q You will weigh their testimony the same as you would any other person's testimony?

A Yes, sir. I think that is my obligation.

Q Do you know anything about the difference between a Doctor of Osteopathy and a Medical Doctor?

A No, sir, I don't.

Q What?

A I do not.

Q Do you know of any reason why you couldn't weigh the testimony of a Doctor of Osteopathy the same way you would weigh the testimony of a Medical Doctor?

A No, sir, I don't know any reason now why I could or couldn't. I don't know anything about the doctors' profession.

Q If they qualify, you would give them the proper weight, is that right?

A To the best of my ability, yes, sir.

MR. CORRIGAN: I think I will pass for
cause.

THE COURT: The first peremptory
is with the defense, that is, the second peremptory.

MR. PETERSILGE: The defense will
excuse Mr. Smith.

THE COURT: You will excuse him?

MR. PETERSILGE: Yes, sir.

THE COURT: Mr. Smith, you are
excused. Thank you very much, sir.

Ladies and gentlemen of the jury, now that you
have been sworn as jurors for the trial of this
case and you are about to leave this courtroom, the
Court is going to do what the law of this state
calls for and requires that he shall do. I have
already stated to you what the law prescribes, and
I will state it again in order that there be no
misunderstanding whatever about it.

You are not to talk to anyone about this case
or any matter in connection with it at any time during
the progress of this trial. You are not to permit
others to talk to you about it. You are not to remain
anywhere where other people are talking about it among
themselves, whether they have an interest in the case
or not. You are not to discuss it among yourselves,
either in your jury room or elsewhere.

It is the duty of a person who has been selected

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anywhere where other people are talking about it among
themselves, whether they have an interest in the case
or not. You are not to discuss it among yourselves,
either in your jury room or elsewhere.

It is the duty of a person who has been selected

as a juror to sit here patiently and wait until all the evidence has been received and the instructions of the Court have been received and you are in your jury room for deliberation and decision before you discuss the matter in any manner, and in the meantime, you are individually to keep your own counsel and not to form any opinion or judgment whatever until the final step when you are in your jury room for deliberation and decision of this case.

Will you be good enough to observe that caution during the progress of the trial? And I would suggest to you, as I have already done so -- I don't know whether you were all here at that time or not -- that you do not read the newspapers and you do not now listen to comments over the radio or by any other means until this case has been disposed of. Have somebody preserve those things for you until some future day when you will have lots of time to look them over.

Now, without any formality at all, we will be adjourned until 9:15 tomorrow morning.

(Thereupon an adjournment was taken at 4:00 o'clock p.m. to 9:15 o'clock a.m., Friday, October 29, 1954, at which time the following proceedings were had:)

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FRIDAY MORNING, OCTOBER 29, 1954, 9:15 O'CLOCK A.M.

Thereupon ELIZABETH F. KARNOSH, being first
duly sworn, was examined and testified as follows:

EXAMINATION OF PROSPECTIVE JUROR ELIZABETH F. KARNOSH:

BY THE COURT:

Q Is your name Elizabeth F. Karnosh? ✓

A Yes, your Honor.

Q 1727 Royalton Road, Broadview Heights?

A That's right.

Q That is a rather unusual name, so I will ask you one \$64
question immediately. Are you related at all to the Dr.
Karnosh family?

A Yes, your Honor.

Q How close?

A He is my brother-in-law.

Q In other words, your husband is a brother to Dr. Karnosh?

A Yes.

Q Well, perhaps we better explore that feature for the moment.
Would the fact that Dr. Karnosh is your brother-in-law have
any bearing at all upon your judgment in the trial of a case
of this kind if you find that, for instance, Sam Sheppard, the
defendant in this case, is a Doctor of Osteopathy and there
will undoubtedly be a number of doctors testify in this case,

doctors of both schools of medicine, would that have any influence at all upon you?

A No.

Q And how often do you see Dr. Karnosh?

A Not very often. Probably once a year.

Q Will you speak a little louder, please, and speak right into the microphone?

A Once a year or so, not too often.

Q How long have you folks lived on Royalton Road?

A Ten years.

Q Seven years?

A Ten years.

Q You will have to speak louder, Mrs. Karnosh.

And what is your husband's name, please?

A Charles Robert.

Q And what is his trade or occupation?

A Carpenter.

Q And have you any children?

A Yes, your Honor. Three girls.

Q Three girls?

A Yes.

Q And how old are they?

A 30 and 26 and 25.

Q And do any of them live with you?

A No.

Q Do I understand that there is no one living at the home now other than yourself and your husband?

A That's right.

Q Is your husband self-employed or is he employed by someone else?

A He is employed by someone else.

Q By whom?

A By William E. Malm.

Q William who?

A E. Malm, M-a-l-m.

Q And where is his place of business?

A He is at 414 the Swetland Building.

Q And how long has he been so employed?

A For at least four years.

Q Are you employed at all?

A No, your Honor.

Q Just a housewife?

A That's right.

Q Mrs. Karnosh, have you ever served as a juror before?

A No.

Q Have you ever been a witness in any case in court before?

A No.

Q You were here a week ago on last Monday morning, I take it, and you heard these good people around this table presented. Do you know any of them?

- 2 A No, I don't.
- Q Do you know the County Prosecutor, Mr. Cullitan, or any member of his staff?
- A No, your Honor.
- Q Or the sheriff or any member of his staff?
- A No.
- Q Or the coroner, Dr. Gerber, or any member of his staff?
- A No.
- Q Are there any members of your family -- and by your family I mean your own and your husband's -- who are members of a Police Department or any law-enforcing agency anywhere?
- A Yes, your Honor. I have a son-in-law a policeman.
- Q You have a son-in-law a policeman?
- A That's right.
- Q Where is he a policeman?
- A Well --
- Q Is he in Cleveland or Akron?
- A Yes, in Cleveland.
- Q And what is his name?
- A Robert E. Shankland.
- Q What is his name?
- A Shankland, S-h-a-n-k-l-a-n-d.
- Q Shankland?
- A Yes.
- Q And how long has he been on the Cleveland police force?

A Just about a year.

Q What did you say his relationship is, son-in-law?

A Son-in-law.

Q He is married to your daughter?

A That's right.

Q And where do they live?

A He lives at 7510 Brinsmade Avenue.

Q And how often do you see him?

A Oh, probably once a week or so.

Q Would the fact that he is a member of the Police Department have any bearing on your judgment in weighing evidence in this case? And I am saying to you that there probably will be members of the Cleveland Police Department testifying in this case.

A No, I don't think so.

Q Do you know whether or not your son-in-law has had anything whatever to do with any investigation in connection with this Sheppard case?

A I am not real sure, but I don't think.

Q You are not sure but what?

A I don't think so.

Q You don't think so?

A No.

Q Have you or any members of your family ever been visited by violence at the hands of another person?

A No, sir.

Q Mrs. Karnosh, have you any objection to capital punishment in a proper case?

A Yes, I do.

Q You do?

A Yes.

Q How long have you entertained that objection?

A I think I always have.

Q Always have entertained it?

A Yes.

MR. MAHON: Challenge for cause,
your Honor.

THE COURT: All right. You will
be excused, Mr. Karnosh. Thank you.

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Thereupon STANLEY J. GORCZYCA, being first
duly sworn, was examined and testified as follows:

EXAMINATION OF PROSPECTIVE JUROR STANLEY J. GORCZYCA:

BY THE COURT:

Q Will you give us your name, please?

A Stanley J. Gorczyca.

Q You pronounce it Gorczyca?

A Yes, sir.

Q You live at 3927 or 47 Spokane?

A 3927 Spokane.

Q 3927 Spokane Avenue?

A Yes, sir.

Q That's out in the Brooklyn area?

A Yes.

Q How long have you lived there?

A Ten months.

Q And did you before that live at 3942 West 22nd Street?

A Yes, sir.

Q That is in the same general neighborhood?

A Yes, sir.

Q And how long had you lived on West 22nd Street?

A About 26 years.

Q 26 years?

A Yes, sir.

Q Are you married, Mr. Gorczycz?

A Yes, sir.

Q And do you have a family?

A Yes; two girls.

Q Two girls?

A Yes, sir.

Q How old are they?

A One is two and the other is five.

Q And are you and your wife and the two children the entire household?

A Yes, sir.

Q What is your trade or occupation or business?

A I manage the Brooklyn Polish-American Home.

Q You what?

A I manage the Brooklyn Polish-American Home.

Q And how long have you been so occupied?

A Since July 7th.

Q Of this year?

A Yes, sir.

Q What did you do before that?

A I was a sheet metal worker at Air-Maze Corporation.

Q What corporation?

A Air-Maze.

Q And how long were you in that business?

A 13 years.

MR. DANACEAU: I didn't get that business.

MR. GARMONE: Sheet metal business.

MR. DANACEAU: Sheet metal?

MR. GARMONE: That's right.

PROSP. JUROR GORCZYCA: Sheet metal, yes, sir.

Q Have you ever served as a juror before?

A No, sir.

Q Have you ever been a witness in any case in any court?

A Yes, sir.

Q A civil case?

A Yes, sir.

Q Some business transaction?

A Yes, sir.

Q Was that Common Pleas Court?

A It was in Judge Jackson's court.

Q Municipal Court?

A Municipal Court.

Q It was down at the City Hall?

A Yes, sir.

Q I take it that you were here a week ago last Monday morning?

A Yes, sir.

Q And heard these good people around the table presented?

A Yes, sir.

Q Do you know any of them?

A No, sir.

Q Do you know the County Prosecutor, Mr. Cullitan, or any member of his staff?

A No, sir.

Q Do you know the sheriff or any member of his staff?

A No, sir.

Q Do you know the coroner, Dr. Gerber, or any member of his staff?

A No, sir.

Q Are there any members of your family -- and by that I would like to include your wife's family as well -- who are members of a Police Department or a law-enforcing agency anywhere?

A You mean direct family?

Q Well, tell us what it is, if there are any?

A I have a cousin, well, he is just a special policeman.

Q He is a what?

A A special policeman.

Q He is a special policeman?

A Yes.

Q In Cleveland?

A Yes.

Q What is there special about it? He is employed by some merchants in a neighborhood or --

A Well, he is appointed from City Hall to different dances,

wherever they assign him.

Q But he merely has a commission as a special policeman and is, perhaps, privately employed by different people?

A Yes, sir.

Q Not a member of the regular Police Department?

A No, sir.

Q Have you or any members of your family ever been visited by violence at the hands of another?

A No, sir.

Q Have you any objection in a proper case to capital punishment?

A No, sir.

Q Do you understand, Mr. Gorczyca, that it is the function of a jury to decide what the facts are and determine whether a person charged with a crime is guilty or not, and that the Court has absolutely nothing to do with the finding and the facts, it is entirely the function of a jury? Do you understand that?

A Yes, sir.

Q And do you understand, also, that the jury does so on the basis of two things in particular, first, the evidence that comes from the witnesses on that witness chair, and second, on the basis of the principles of law which the Court will state to the jury; do you understand that?

A Yes, sir.

Q And do you understand, also, that when testimony is produced, you are not at the moment to pay any attention whatever to who produces it, whether it is a person in public office, out of public office, a person with a title, professional man or common laborer, the testimony is to be weighed with one test only in mind and that is what is the truth and what is not the truth? Do you understand that?

A Yes, sir.

Q And do you also understand that you are to accept the principles of law applicable to the case from the Court, whether you think those principles are properly stated by the Court or not, that you are not to substitute your own judgment as to what the law is but you are to accept the principles of law precisely as the Court states them to the jury? Do you understand that?

A Yes, sir.

Q Now, I would like to ask you if you believe now that you could -- preliminary to that, I will say to you that counsel on this side of the table, the prosecution, and the defense and the defendant are asking one thing and one only here now, and that is that they have an absolutely fair and impartial jury. In other words, that they have a fair trial, no matter where the chips may fall.

Do you now believe that you could sit here and listen to the evidence and the instructions of the Court as to the law

and be guided entirely by them and arrive at a fair and frank decision based on your own judgment of those?

A No, sir.

Q You do not?

A I do not, sir.

Q Have you formed an opinion as to the guilt or innocence of Dr. Sheppard?

A Yes, I formed a firm opinion.

Q Don't say what your opinion is.

A No.

Q You have formed an opinion?

A Yes, sir.

Q And do you still entertain that opinion?

A Yes, sir.

Q And could you disregard it now and start off to listen to evidence without any regard whatever to your opinion?

A No, sir.

MR. GARMONE: Challenge for cause.

THE COURT: You will be excused,

Mr. Gorczyca. Thank you, sir.

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MR. GARMONE: That, your Honor,
exhausts the first list.

THE COURT: Pardon?

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A No, sir.

Q You do not?

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Q Don't say what your opinion is.

A No.

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Mr. Gorczyca. Thank you, sir.

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MR. GARMONE: That, your Honor,
exhausts the first list.

THE COURT: Pardon?

MR. GARMONE: That exhausts the first list.

(Thereupon a discussion was had between Court and counsel, out of the hearing of the jury and off the record, after which the following proceedings were had within the hearing of the jury:)

THE COURT: Ladies and gentlemen of the jury, we are getting another list, and the people, I think, are here, but it will take about 10 or 15 minutes to get the matter in shape to start our performance on the new list all over again.

Will you please retire to your jury room, and do be careful not to discuss this matter in any manner whatsoever, even among yourselves? We will call you as soon as we are ready for you.

(Thereupon the jury retired from the courtroom, and the following proceedings were had in the absence of the jury:)

MR. DANACEAU: We have agreed that he may make the application he is about to make in the absence of the jury and also in the absence of the defendant.

MR. GARMONE: That's all right.

MR. MAHON: Where is the defendant?

MR. DANACEAU: He was just taken up-

stairs.

THE COURT: I am responsible for that.

MR. CORRIGAN: Where is the defendant?

MR. GARMONE: They took him upstairs.

MR. MAHON: I think he ought to be here.

THE COURT: Wait a minute. What are we doing? We are merely --

MR. MAHON: Every step in the proceedings the defendant has a right to be present at, Judge.

THE COURT: He does, I agree with you.

MR. CORRIGAN: Yes. Have the defendant brought back down.

THE COURT: I am sorry. Well, let's have the jury down, too, but not the extra jurors.

MR. PARRINO: Shall we wait for the defendant first, your Honor?

THE COURT: Yes. He will be brought down.

(Thereupon the following proceedings were had in the presence of the jury:)

THE COURT: Ladies and gentlemen of

the jury, we have developed this morning a little matter of procedure at this point, and we are going to explore the question involved. You are not interested in it and will not be at all. It is a matter that doesn't concern the facts of this case in the least. So in order to give us that time and to give you just a little more leisure in the noon hour, we will adjourn at this point until 1:30 this afternoon. And will you please in the meantime observe the caution which the Court has heretofore expressed to you, do not discuss this case or any matter connected with it in any way, shape or manner, not even among yourselves?

So without any formality at all now, we will be adjourned until 1:30 this afternoon.

(Thereupon the jury retired from the courtroom, and the following proceedings were had in the absence of the jury:)

THE COURT: Mr. Corrigan --

MR. CORRIGAN: In the --

THE COURT: Just one moment.

Wouldn't you rather explore the subject first and then present what you have? It is new to me, too.

MR. CORRIGAN: All right. I'll be

perfectly willing to do that, your Honor.

THE COURT: Is that agreeable, that you explore the matter as far as we can first, and then present what you have when we reconvene?

MR. GARMONE: That is agreeable with us.

MR. DANACEAU: You mean the matter of the notice with respect to the venire?

MR. GARMONE: Yes. That is agreeable with us, your Honor, if it is agreeable with the prosecution.

MR. PARRINO: Yes, I am sure that that is satisfactory, Judge.

MR. GARMONE: We will explore it and then --

THE COURT: That's right, and then we will all return at 1:30.

(Thereupon an adjournment was taken at 11:17 o'clock a.m. to 1:30 o'clock p.m. of the same day, at which time the following proceedings were had:)

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AFTERNOON SESSION, OCTOBER 29, 1954, 1:45 P.M.

THE COURT: Ladies and gentlemen of the jury, we have still our problem with us, and we have come to the conclusion that we should now adjourn the formal hearing in this matter until 9:15 on Monday morning.

I wish now that you are about to leave here and to be gone for the weekend to anew caution you, and I hope that you will not think that I am repetitious and want to make a nuisance of myself in talking to you, but the law of this state requires that I do so.

It is your duty not to talk about this case to anyone, nor to permit anyone to talk about it to you, nor to remain anywhere where other people are talking about it amongst themselves. You are not to talk about it among yourselves, in your jury room or elsewhere. It is your duty as sworn jurors to keep your own individual counsel and to wait, without forming any opinion or judgment whatever, until all the evidence has been heard and the Court has given you instructions as to the law and you are in your jury room to deliberate and to decide the issues in this case. That is the first time you are to discuss it with anybody in any way, shape or manner.

I mentioned the matter yesterday or the day before, and I will do so again as part of what I am now saying, that I would suggest to you and caution you that you do not read any newspapers during the progress of this trial, that you do not listen to radio comments nor watch or listen to television comments, insofar as this case is concerned. You will feel very much better as the trial proceeds, I am sure, and I have no idea what is going to develop in the trial any more than you do, but I am sure that we shall all feel very much better if we do not indulge in any newspaper reading or listening to any comments whatever about the matter while the case is in progress. After it is all over, you can read it all to your heart's content, because we all have to, when we come to the serious business -- and it is serious business, of course, serious to the State and it is certainly serious to Sam Sheppard and his counsel; it is serious to everybody in the picture -- we ought to be equally serious as the matter itself, and we should be sure that we are keeping ourselves as good citizens in the position where we can listen to that testimony without being influenced in any way, shape or manner by what may be surrounding in the air and which may have no basis in fact. Will you be good

enough -- as good citizens you have an important duty to perform -- to observe that caution during the week-end and during the entire progress of this trial?

Without any formality at all, we will now be adjourned until 9:15 on Monday morning.

(Thereupon a discussion was had between Court and counsel, out of the hearing of the jury, after which the following proceedings were had in the hearing of the jury:)

THE COURT: Counsel called my attention to the fact, too, that, as you must know by this time, it would be a very serious matter for anybody, no matter what their purposes or views, to communicate with you in any manner about this case. If anything like that should happen, no matter how trivial, how unimportant it may be -- it may appear upon its face, no matter what it is, will you be good enough to immediately report it to the Court? The Court has a telephone in his home. You may call on week days, night or day, or on Sunday. If you are not able to reach the Court, will you be good enough to reach counsel for the State or counsel for the defense? But in any event, make the matter known. And I would prefer it be made known to the Court, because the Court would then communicate it to both parties

at the same time. We want to be fair one with another, as well as to the entire picture itself. So if any communication comes of any kind, please do not hesitate immediately to report it to the Court. Thank you very much.

(Thereupon an adjournment was taken at 2:00 o'clock p.m. to 9:15 o'clock a.m., Monday, November 1, 1954, at which time the following proceedings were had:)

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Monday Morning Session, November 1, 1954.
9:30 o'clock a.m.

THE COURT: Ladies and gentlemen of the panel, here we try cases that are considered within the criminal division of this court. In such cases the State of Ohio is always the plaintiff, and we have here for trial the case of the State of Ohio against Sam H. Sheppard, who is charged here with murder in the first degree by reason of an indictment issued by the Grand Jury of this County.

I ought to say to you now, perhaps, at the very outset, that the fact that Sam H. Sheppard is here, and the fact that he is here under an indictment of the Grand Jury of this County raises no presumption whatever of his guilt of anything, and he is here at the outset presumed to be innocent, and this is the first inquiry that is to be made as to whether he is innocent or guilty.

The State of Ohio is always represented in this court in these cases by the office of the County prosecuting attorney, the law so provides. The County prosecuting attorney of this County is Mr. Frank T. Cullitan. His office is represented here by gentlemen who are now at the trial table. The

first gentleman to my left is Mr. John J. Mahon, an assistant County prosecuting attorney; the second gentleman to my left, back of Mr. Mahon, is Mr. Saul Danaceau, also an assistant County prosecuting attorney. Back of Mr. Danaceau is Mr. Thomas J. Parrino, also an assistant County prosecuting attorney and a member of that office.

Back of Mr. Parrino is Inspector James McArthur, Inspector of Detectives in the Cleveland Police Department.

There will come to the vacant chair to the left of Inspector McArthur another member of the Cleveland Police Department, Sergeant Lockwood.

The defense in this case is represented by the gentlemen to my right. The first gentleman is Mr. William J. Corrigan; speaking to Mr. Corrigan at the moment is Mr. Fred Garmone; to Mr. Garmone's right is Mr. Petersilge, and the last gentleman at the trial table is Mr. William H. Corrigan, the son of William J. The other gentleman is Sam H. Sheppard, the defendant in this action.

All those counsel whom I have named to you, other than Sam H. Sheppard, are members of the Bar of this County.

You will be asked specific questions, some by

the Court, some by counsel for the State and some by counsel for the defense. I hope you will be careful, and I warn you to be careful to answer those questions correctly and truthfully, and I now assure you that they are not being asked by anybody to pry into your private affairs at all, but for the sole purpose of determining whether or not there exists any reason why any one of you shall not serve here as a perfectly fair and an impartial juror.

A fair and an impartial juror is a juror who can sit here patiently and who can listen to all of the evidence that is produced in a case and to the instructions of the Court as to the law applicable to the particular case, and who can honestly close out the rest of the world for the moment and bring a curtain down on all information he may have about the matter from other sources, and be guided entirely by the evidence and the instructions of the Court as to the law applicable to the particular case.

I want to assure you, too, that there is no one around this table seeking any favors. The State seeks no favors, the defense seeks no favors. They are all asking one thing, and one only, and that is an

absolutely fair and an impartial jury and a fair trial of the issues, whatever those issues may develop to be.

Will you all stand now, please? Raise your right hand.

Do you and each of you solemnly swear that you will well and truly answer all questions put to you, whether put by counsel or by the Court; that your answers shall be the truth, the whole truth, and nothing but the truth as you shall answer to God?

Do you all swear to that? Thank you.

Now, Mr. Clerk, will you be kind enough to call the roll here?

THE CLERK: As I call your name answer "Here" or "Present."

(Thereupon Anthony Centrachio, Jack N. Hansen, Anna P. Hanson, Charles N. Marin and Charles H. Hohmeier all answered "Present".)

THE CLERK: Robert James Carr was not found by the Sheriff, your Honor.

(Thereupon Ann Marie Nunn and Betty J. Richter answered "Present".)

THE CLERK: Mary F. Goldsboro not found by the Sheriff.

(Thereupon Lois H. Mancini, Lulu M. Keiffer, John F. Crysler, Dorothy Ann Dzek, Theresa L. Lascala, Godfrey A. Garson, Frank M. White, Trevor E. Powell, Rowland E. Gerbrand, all answered "Present".)

THE CLERK: Robert Joseph Holzman and Ross K. Smart not found by the Sheriff, your Honor.

(Thereupon Frank W. Barr, John William Spear answered "Present".)

THE CLERK: Martha A. Gordon not found by the Sheriff.

(Thereupon Polly Prescott answered "Present".)

THE CLERK: Catherine Hanna absent, your Honor.

THE COURT: Will you ladies and gentlemen be kind enough now to retire to the jury room with the exception of the first two names that were called? They will remain here under the instructions of the Bailiff.

I think perhaps before you leave I ought to caution you as if you had been selected as jurors in this case. You are not to talk about this case to anyone, nor are you to permit anyone to talk about it to you. You are not to remain anywhere where other

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people are talking about it among themselves, whether they have any interest in the case or not. You are not to talk about it among yourselves either in your jury room, in this Courthouse, or outside of this Courthouse. It is your duty now to keep your own individual counsel and to have no thoughts whatever about the matter until we see whether you are accepted as jurors in this case. If any of you are, then you will have final instructions at this time.

I wish to say to counsel that a telephone call came in here from the home of Catherine L. Hanna, No. 25, stating that -- I think she was bedridden at the moment -- that she is not well, and her telephone is Evergreen 1-7907. That is the only person who didn't respond who has been served.

Is Mr. Hansen here? Will you be kind enough to just step outside that door?

Now, sir, Mr. Centrachio, will you be good enough to take the stand?

MR. GARMONE: If the Court please, before you --

MR. CORRIGAN: Where is the jury?

MR. GARMONE: Before you embark on your

examination of this prospective juror, are the instructions that you gave the panel, as a whole, on the basis that we are now progressing with the examination to determine the qualifications of the two alternates?

THE COURT: Well, that is where we are.

MR. CORRIGAN: Well, where is the jury, your Honor?

THE COURT: All right. We will call the jury. The prosecutor thought perhaps that for the examination of these people the presence of the jury would not be essential.

All right, we will have them down.

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(Thereupon the following proceedings were had in the presence of the jury):

Thereupon ANTHONY CENTRACHIO, being first
duly sworn, was examined and testified as follows:

EXAMINATION OF PROS. JUROR ANTHONY CENTRACHIO

By the Court:

Q Will you give us your name, please?

A Anthony Centrachio.

Q And you live at 10805 Mount Carmel Avenue?

A That's right, sir.

Q How long have you lived there?

A Since 1936.

Q And have you a family?

A Yes, sir.

Q What does your family consist of?

A Four daughters.

Q How old are they?

A 18, 16, 9 and 4.

Q Is there anyone living in your household other than yourself
and wife and four daughters?

A No, sir.

Q Did I ask you how long you have lived on Mount Carmel?

A Yes, you did, your Honor.

Q What did you tell me?

A Since 1936.

Q That would be 18 years?

A That's right.

Q What is your occupation or business, Mr. Centrachio?

A I am a painter.

Q You paint houses?

A That's right.

Q Buildings? All right. And are you employed by others or are you self-employed?

A I am employed by another man.

Q Who are you employed by at the present time?

A Rodney Bridewell.

Q Where is his place of business?

A In Lyndhurst.

Q How long have you been associated with him or employed by him?

A Three years.

Q Have you ever served as a juror before?

A Never.

Q Have you ever been a witness in any court in any case?

A Well, an automobile accident case.

Q Was there any death or serious injuries?

A No.

Q Just property damage matter?

A That's right.

Q Do you know any of those gentlemen around the table here whom I named, or Sergeant Lockwood of the Cleveland Police Department?

A Never, never saw them.

Q Don't know any of them?

A No.

Q Do you know the County prosecuting attorney, Mr. Frank Cullitan, or any member of his staff?

A No.

Q Or the Sheriff or any member of his staff?

A No, sir.

Q Or the Coroner, Dr. Gerber, or any member of his staff?

A No, I don't.

Q Are there any members of your family -- and by your family I will include your wife's as well -- who are members of any police department or any law-enforcing agency anywhere?

A No, sir.

Q Have any of your family been visited by violence at the hands of another at any time?

A No, sir.

Q Have you any objection in a proper case to capital punishment?

MR. CORRIGAN: Object.

THE COURT: Overruled.

MR. CORRIGAN: Exception.

A I don't understand.

Q Have you any objection in a proper case to capital punishment?

MR. CORRIGAN: I object.

THE COURT: Overruled.

A Yes.

Q You do?

A Yes, sir, your Honor.

Q How long have you entertained that objection?

A Oh, I guess ever since I started reading murder trials.

Q Ever since you started reading what?

A About murder stories in the papers.

Q About this murder?

142 A No, not this one. Others.

MR. MAHON: Challenge for cause.

THE COURT: You will be excused,

Mr. Centrachio.

(Thereupon Prospective Juror Anthony
Centrachio was excused.)

- - -

Thereupon JACK N. HANSEN, being first duly sworn, was examined and testified as follows:

EXAMINATION OF PROS. JUROR JACK N. HANSEN

By the Court:

Q Is your name Jack N. Hansen? ✓

A Yes, sir.

Q And you live on Giles Road in Moreland Hills Village?

A Yes, sir.

Q How long have you lived on Giles Road, Mr. Hanson?

A Five years.

Q Have you a family?

A Yes, sir.

Q What does your family consist of?

A Wife and one boy.

Q How old is the boy?

A Eight.

Q And how long -- you said you lived there five years. Is your household composed of yourself and wife and boy only?

A Pardon?

Q Any other people living with you other than your --

A My mother-in-law is living with me.

Q What is your occupation or business?

A General foreman.

Q Where do you do that?

A At the Oliver Corporation.

Q Where is their place of business?

A 193rd and Euclid. It is actually in Euclid Village. It is just across the line.

Q What do they do?

A Manufacturer of crawler-type tractors.

Q How long have you been connected with that corporation?

A 16 years.

Q Have you ever served as a juror before?

A No, sir.

Q Ever appeared in any court as a witness in any case, civil or criminal?

A No, sir.

Q Have any of your members of your family -- and by your family I mean your wife's as well as your own -- ever been visited by violence at the hands of another person?

A No, sir.

Q Are there any members of your family who are members of a police department or any law-enforcing agency anywhere, if you know?

A Not to my knowledge, no, sir.

Q Do you know any of these good people that were named here this morning?

A Other than your introduction, no.

Q Do you know the Prosecuting Attorney, Mr. Frank T. Cullitan,

or any member of his staff?

A No, sir.

Q Do you know the Sheriff or any member of his staff?

A No, sir.

Q Or the Coroner, Dr. Gerber, or any member of his staff?

A No, sir.

Q Have you any objection in a proper case to capital punishment?

MR. CORRIGAN: Objection.

THE COURT: Overruled.

MR. CORRIGAN: Exception.

A No, sir.

Q You said no?

A No. Yes, I said no.

Q Do you understand, Mr. Hanson, that it is the function of the jury, and it is the function exclusively to determine what the facts are in a case of this kind, in other words, determine whether a person charged with crime is guilty or innocent, and that no one can interfere with the jury in the performance of that function? You understand that, do you?

A Yes, sir, I do.

Q And do you understand, also, that the jury do that on the basis solely of the evidence which is produced in this case?

A Yes, sir.

Q And the instructions of the Court as to the law applicable

to the case?

A Yes, sir.

Q And do you understand also that without regard to where evidence comes from in this witness chair, whether it is from a public official, a professional man or a common laborer, that at the outset it is the same, and it is to be tested on the same basis?

A Yes, sir.

Q And that test being only what is true and what is not true. You understand that?

A Yes, sir, I understand that.

Q I would like to know if, since the 4th day of July of this year, and particularly since your name has appeared in the newspapers as a prospective juror here, if you have received any communication of any kind from anybody about it?

A Well, what do you mean by communication? You mean conversation with anybody, or outside calls, or -- I don't quite understand.

Q Yes. First of all, by mail, by telegram or telephone?

A No, sir, I have not.

Q And have you had any discussions with people about the matter?

A Yes. Brief discussions. Not since my name has been in the paper, no. Prior to that, yes.

Q You have, I take it, read newspapers and heard radio comment, have you?

A Yes, sir.

Q Television, and so forth, and discussed it with other people at different times?

A Yes, sir.

Q Have you as a result of anything that you have read or heard or discussed formed any opinion as to the guilt or innocence of Dr. Sheppard?

A No, sir.

Q And are you satisfied that you could sit here and listen to evidence and be absolutely fair and impartial on the basis of that evidence and the instructions as to the law?

A I believe I could.

Q You are sure you could?

A I think I could.

Q Well, we want a little more certainty than that.

A I feel fairly certain I could, yes, sir.

Q You are satisfied that you could?

A Yes, I think I could.

THE COURT: This is Mr. Parrino
of the prosecutor's staff. He would like to put a
few questions to you, sir.

EXAMINATION OF PROS. JUROR JACK N. HANSEN

By Mr. Parrino:

Q Mr. Hansen, we are about to ask you some questions, in

addition to those that Judge Blythin has already asked, for the purpose of determining your qualifications to serve as a juror on this case. You understand that, of course?

A Yes.

Q Now, I think you told us that you served -- that you are employed as a general foreman at the Oliver Corporation?

A Yes, sir, that's correct.

Q And that has been for approximately 16 years, is that correct?

A Not under that capacity, no. I have been with the Oliver Corporation for 16 years.

Q What have been some of your other duties while you worked there?

A Well, I started out there in the shipping room and stayed in the traffic division all the way through. I was put in full charge of our Plant No. 2 during the war, and then I became a general foreman.

Q As general foreman, what do your duties include, please?

A As a general foreman my duties are overseeing of other foremen, particularly in the traffic division and material division.

Q Is Mrs. Hansen employed anywhere?

A No, she isn't.

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Q Now, you told us, Mr. Hansen, that coming into this courtroom as a prospective juror, you have read from time to time something about this case, which is only natural,

A Yes, sir.

Q There has been considerable publicity given to this case in the newspapers of this community for some time, that's correct, is it not?

A Yes, sir.

Q Do you recall when it was that you first read about the case?

A When?

Q Yes.

A No, I couldn't swear to it. I suppose the first day it appeared in the paper I read it. I don't recall.

Q About the time that it happened?

A I imagine so, yes, sir.

Q You didn't form any opinion at that time as to the guilt or innocence of Sam Sheppard, did you, Mr. Hanson?

A No, sir.

Q And from that time up until the time that you received your notice that you were to be a prospective juror, on and off you have read something about the proceedings here, is that correct?

A That's correct.

Q And I take it that you have had occasion to speak to other people about this or have them speak to you about this, haven't they?

A Yes, sir.

Q Now, as a result of everything that you have read and what

you have heard by other people, and perhaps on the radio and perhaps on television, I understand that you have not formed any fixed opinion one way or the other as to the guilt or the innocence of Sam Sheppard at this time, is that correct?

A Yes, sir, that's correct.

Q And coming into this courtroom, as you have, you are in a position to weigh the evidence as you hear it in the courtroom, is that correct?

A Yes, sir.

Q And set aside anything that you have heard or read previously, take your impressions only from the witnesses as you get them here? Will you do that, please?

A Yes, sir.

Q Now, you have stated, of course, that you have not previously served as a juror, is that correct?

A That's correct.

Q And you have not served as a witness in any type of case?

A No, sir.

Q Now, Mr. Hanson, you understand that this is certainly a very important matter?

A Yes, I understand that.

Q It is important certainly to the defendant, Sam Sheppard, and it is also important to the State of Ohio, which is represented by the prosecution side of the table here.

Now, coming into this courtroom as a juror, you will be called upon to listen to a great volume of testimony as it comes to the jury from the witness stand. Various persons will testify on both sides. You appreciate, of course, that there will be a conflict in the evidence here, and that the jury sitting patiently listening to the evidence, it will be one of their functions to attempt to resolve that conflict and determine exactly what the facts are in this case.

A Yes, sir, I realize that.

Q And will you give to all of the testimony of all of the witnesses of both sides your undivided attention and interest throughout the trial?

A Yes, sir.

Q Now, after all of that testimony has been completed, all of the mass of evidence is in, then Judge Blythin, who has certainly a very important job in this trial, he will give to you and describe for you in detail what the laws are of Ohio as they pertain to this specific case. There are many laws that pertain to many different types of offenses. Certainly you appreciate that there are fixed laws that apply to civil cases in contrast to a criminal case.

Now, will you take the law that Judge Blythin gives to you in this trial?

A Yes, sir.

Q And apply those laws to the facts in the case? Will you do that, please?

A Yes, sir.

Q And if, as a result of what you hear from the witnesses and as the result of what you hear from Judge Blythin in his charge to you as to the law, you have the abiding conviction that the defendant is not guilty of the charge set forth in the indictment, you will not hesitate, will you, sir, to return a verdict of not guilty, is that correct?

A That's correct.

Q Now, on the other hand, after you have heard all of the evidence, after Judge Blythin has given you the law, after you have discussed the case with fellow-jurors in your deliberation room, and you, as a juror, are convinced beyond a reasonable doubt of the guilt of the defendant of the charge in the indictment, will you then hesitate to return a verdict of guilty?

A I will not.

Q Now, of course, you appreciate, I am sure, Mr. Hansen, that in any issue, whatever the issue may be, where there is a conflict as to a question of fact, the jury will, in deciding what the facts are, take certain specific things into consideration. Judge Blythin will say to you those things that you may take into consideration in determining what the facts are or how you will judge the witnesses. You under-

stand what I mean?

A Yes, sir.

Q In other words, Judge Blythin will state to you as follows:

That in judging the credibility of witnesses you can take into consideration their entire story, what they have stated, and you may take into consideration whether or not to you, as a juror, the story that that particular witness relates is reasonable or not reasonable. You understand that?

A Yes, sir.

Q And if Judge Blythin states to you that that is the law of the State of Ohio, will you follow that law, please?

A Yes, sir.

Q And, of course, if you, as a result of weighing the testimony of all the witnesses, feel that a particular witness' statements to you, as an individual, with a logical mind, do not seem reasonable then, of course, will you attach less weight or credit to the testimony of that witness?

A I'm afraid I don't quite understand. You said speak to me individually. Now, if I am a juror, I'm not supposed to be spoken to individually.

Q That's correct. I misworded the question, sir.

Now, if a person testifies from the witness stand, and after you have listened to it you feel that what that

person has stated doesn't seem reasonable to you, it certainly does not seem reasonable, now, you will give less weight to the testimony of that witness, would you not, sir?

A I would try to pick out the facts.

Q Yes. And that would be your job, of course. In other words, out of the testimony of each witness it will be for you to determine that which you believe and that which you disbelieve. Do you understand that?

A Yes, I understand that.

Q And in determining what you will believe and what you will not believe, Judge Blythin will state to you that you can take into consideration whether or not a witness' story is reasonable or probable or unreasonable or not probable. You understand that?

A Yes, I understand that.

Q And, of course, naturally it follows, here in the courtroom or anywhere, wherever your experience may lead to, that if what a person says to you, if he is a witness or any person, if what that person states to you sounds reasonable and probable, you believe him, isn't that correct?

A That's correct.

Q And if what a person states to you does not sound reasonable or probable, you don't believe them; it is as simple as that, is it not?

A That's correct.

Q Now, similarly, Judge Blythin will say to you that you can take into consideration the interest that a person has in this case in sizing up his testimony. For instance, if a person has a great interest in any case, you would be inclined to take his testimony with a grain of salt, perhaps, is that correct?

A Well, I would try to pick out the facts, yes. Yes, I would try to make my own decision as to whether his factor--

Q That's right, and if Judge Blythin states to you that you may take into account the interest or lack of interest of a particular witness in sizing up his testimony, will you follow his instructions in that regard?

A I will be guided by the Judge, yes, sir.

Q Judge Blythin has stated to you that the trial here involves first degree murder. Of course, you know that to be a fact, do you not?

A Yes, sir.

Q And you have stated that you have no objections to capital punishment, is that correct, sir?

A That's correct.

Q So that where you as a juror come to hear this case, and you are convinced beyond a reasonable doubt of the guilt of the defendant, you could enter into a verdict which might take a human life, is that correct, sir?

A Yes, sir.

- Q And certainly you appreciate the very grave seriousness and importance of a task of this kind, do you not?
- A Yes, sir, I do.
- Q And you are willing to assume the obligation, the duty of serving here as a juror in this case, is that correct?
- A Yes, sir.
- Q You are not acquainted with any of the parties in this lawsuit, are you?
- A No, sir.
- Q You are not acquainted with anyone at Bay View Hospital, are you?
- A No.
- Q Are you acquainted with any members of the defendant's family, so far as you can recall?
- A No, sir, not that I know of.
- Q Are you acquainted with anyone that directly is acquainted with the defendant?
- A No, sir.
- Q Or any member of his family?
- A If so, not to my knowledge.
- Q Yes. So, certainly, you are not acquainted, as you have stated, with any members of the prosecution, is that correct?
- A No, sir, not to my knowledge.
- Q None of the lawyers in this case?
- A Not that I know of.

Q You come into this courtroom completely detached from any personal contact with any of the parties to this lawsuit, so far as you know?

A That's right.

Q Now, in a courtroom, sir, we have both direct evidence and circumstantial evidence, especially in a criminal case, and the Court will say to you in his charge finally that here both types of evidence are proper in a criminal case.

Now, if Judge Blythin states that to you, will you take that to be the law in Ohio?

A Yes, sir.

Q And Judge Blythin will describe for you as to what is direct evidence and what is circumstantial evidence, and I am sure that you will take his description of those two matters to be the law in the State of Ohio? Will you do that, please?

A Yes, sir.

145 Q Now, Judge Blythin will state to you that direct evidence is something that you see or hear, that you can determine from your own senses, whereas, circumstantial evidence are the reasonable inferences that may be shown from proven facts. That is a brief description of those two, and when, as I say, Judge Blythin describes them to you, you will follow his instructions as to those two matters? You will do that, please?

A Yes, sir, I will.

Q Now, Mr. Hansen, you appreciate, of course, that in determining and judging any case that it is important that you decide the case free from bias or prejudice or sympathy, so should you be selected as a juror in this trial, do you feel that you could come to your decision insofar as it is humanly possible without any feelings of prejudice against anyone?

A Yes, sir, I believe I could.

Q Or without any feelings of bias against anyone?

A Yes, sir.

Q Or without any feelings of sympathy toward anyone?

A Yes, sir.

Q Do you feel that you could do that?

A Yes.

Q Toward the defendant, or anyone else, is that correct?

A Yes, sir.

Q So only you can decide, sir, on the basis of what Judge Blythin states to you, what I state to you, and what Mr. Corrigan and the gentlemen for the defense may state to you, whether or not you feel honestly and conscientiously that you could serve as a juror. Nobody can tell you that, isn't that correct?

A I understand.

Q You must tell us.

A That's right.

Q In other words, we can't pry into your mind. You know the privacy of your own thoughts, your own background, the nature of this case, and can you think of any possible reason why you could not serve as a juror in this trial, sir?

A No, sir, I can't.

Q Judge the case fairly and impartially to both sides?

A Yes, I feel I could.

Q And let justice be done?

A That's right.

MR. DANACEAU: Thank you very much.

Pass for cause.

THE COURT: That gentleman is Mr.

Garmone, one of defense counsel. He would like to put a few questions.

EXAMINATION OF PROS. JUROR JACK N. HANSEN

By Mr. Garmone:

Q Mr. Hansen, it hasn't been stated to you that you are now being examined to participate in this case as an alternate juror.

A You say has it been stated?

Q It has not.

A It has not, no.

Q The purpose of this examination, and the purpose for the calling of all of the jurors, is that the Court feels that

this trial will take a considerable length of time, so to insure no delay in the event that one of the other twelve ladies and gentlemen in the box are seated and sworn becomes ill, that you then can move into their position.

Now that you understand that your participation may be only that of an alternate juror, you won't take that as not giving your full attention to the facts that you hear in this courtroom?

A No, sir. I would be just as attentive as if I were a juror.

Q You would treat it as such, would you not?

A Yes, sir.

Q There have been considerable questions asked of you, some by his Honor, Judge Blythin, and some by Mr. Parrino. Our purpose in examining anyone is only to determine whether or not the person is qualified to deal with this matter fairly. We only ask fair play. We ask fair play for this young man, and we ask that you give the same fair play to the State.

Now, some of the questions that I will ask may be somewhat personal, and I do that not to pry into your affairs but only to help you determine, and help everybody around this table determine, whether you can qualify or not.

Now, you said that you live at Giles Road in Moreland Hills Village for the past five years, is that right?

A Yes, sir.

Q Where was your residence prior to that?

A East Cleveland.

Q And what street in East Cleveland?

A Gainesboro.

Q Now, do you know the Weigles that live in East Cleveland?

A What was that name?

Q The Weigles. W-e-i-g-l-e.

A No, sir.

Q How long had you lived at this address on Gainsboro in East Cleveland?

A I don't know exactly. Approximately two years.

Q Have you lived in and around Cuyahoga County all your life?

A No, sir.

Q Are you originally a native Ohioan?

A Yes, sir. I was born in Cleveland.

Q May I ask where in Cleveland? East, West Side?

A No. The East Side, I know that. I believe we were living on Olive Court at the time.

Q That is off of 105th Street, is that right?

A That's right.

Q Now, you are associated with the Oliver Corporation, and they manufacture some tractor equipment, is that right?

A Yes, sir.

Q Where is the Oliver Corporation located?

A The Cleveland plant is located at 193rd and Euclid Avenue.

Q Is that right on Euclid Avenue?

A It is on Euclid, yes, sir, on the corner.

Q Now, as general foreman of this organization at the present time, can you tell me whether or not you have any business dealings with a company known as the DiNoc Company?

A No, sir, not that I know of. I don't personally know.

Q Have you ever come in contact with a Thomas Reese, who is associated with the DiNoc Company?

A No, sir, not to my knowledge.

Q Do you know the man?

A No, sir.

Q Do you know any person that is associated with the DiNoc Company?

A No, sir. I never heard that name before.

Q You stated to Judge Blythin that from the 4th of July on, or the 5th of July on, up until the time that you were officially notified that you were called as a prospective alternate juror in this case, that you had some brief discussions with various people?

A Yes, sir.

Q About how many people are you the general foreman over at the Oliver Corporation?

A I would say approximately about 40, 45.

Q And has some of the discussion that you make reference to been had with those people?

A Yes, sir.

Q Are those persons that you come in general contact with every day?

A Yes, sir.

Q That is, every working day?

A That's right.

Q Now, during those discussions were there some opinions expressed to you by some of your fellow-workers or workers that are under your supervision?

A Yes, sir.

Q And about how many of the 40 would you say that you had this brief discussion with expressed an opinion to you?

A I couldn't answer that honestly. I'd say maybe 10 percent, roughly.

Q That would be about four or five?

A Four or five.

Q About over a period of how many days from the time that this case was first written up in the newspaper until that time that you were personally notified to come down and qualify as a prospective juror would you say that an opinion was expressed to you in the plant?

A I don't know. Numerous times.

Q Many times?

A Yes, I would say so.

Q Was there any other opinions expressed to you outside of the

plant in your social gatherings? ✓

A Yes, sir. ✓

Q Are you a member of any organizations, that is, social clubs?

A Yes. ✓

Q May I have the names of them, please?

A The Moreland Hills Village Association; National Association of Foremen; Foremen's Club of Greater Cleveland; Orange School Booster Club. That's about all, I guess. ✓

Q At these many organizations there was discussions about Sam Sheppard? ✓

A I would say very, very little. ✓

Q But there was some? ✓

A I imagine so, yes. I don't recall.

Q Was there some discussion about Sam Sheppard's family? ✓

A Not that I recall. There could have been.

Q Now, about how often or how many times would you say an opinion was expressed to you at these different gatherings that you attended? ✓

A I don't know. I imagine three, four times. It was very slight.

Q And did you at any time express some ideas that you may have had as a result of the newspaper articles? ✓

A I possibly have, yes.

Q Did you come into the courtroom this morning with any of those ideas that you may have expressed?

A No, sir. I came in here with an open mind.

Q With the thought of only fair play in your mind?

A Yes, sir.

Q Now, getting back to the opinions that were stated to you by some of the people that work under you or work with you, do you have now in your mind a recollection of what those opinions were and by whom they were stated?

THE COURT: Answer that yes or no.

PROS. JUROR HANSON: Can I answer it another way?

THE COURT: You are not to state what anybody's opinion was.

MR. GARMONE: I don't want the opinion.

PROS. JUROR HANSON: Yes, I understand you. You want --

THE COURT: You can answer it otherwise, but do not state what any opinion was that was expressed, if any.

A I understand. Possibly some of them I can remember who they were and what they had said. Not all of them, I wouldn't say, no.

Q Well, now, if you are chosen as an alternate juror in this matter, and you eventually were placed into the jury box where you would have the right to express your vote, that is, replace one of the other jurors who may somewhere along

the line become ill or through something that we can't contemplate not be able to continue on, would those opinions, do you think, creep back into your subconscious mind as you were listening to the facts that would be given to you by witnesses that would occupy the same chair that you are in?

A No, sir, they would not.

147 Q You wouldn't permit yourself to weave any of those facts in the facts that you hear in this courtroom?

A No, sir.

Q You are satisfied to that?

A Yes, sir.

Q Now, has there been any discussion around your home about Sam Sheppard, or any other member of the Sheppard family?

A The normal amount, yes.

Q Was there some opinions expressed by Mrs. Hanson or by your mother-in-law?

A Yes, I imagine. Not a definite opinion, no. Expressions, yes.

Q Well, I won't ask you what your mother-in-law's opinion was.

A I wouldn't believe it anyhow.

Q You could dismiss whatever she thinks of the matter and just treat this case on the facts that you hear here?

A I usually do.

Q You are one of the believers in the old theory of mothers-in-law, is that it?

A Yes, sir.

Q Now, Mrs. Hanson, has she ever expressed an opinion to you?

A Yes.

Q And you wouldn't permit her opinion to play any part in this case, would you?

A No, sir.

Q Now, when we talk about facts, we have in mind only the statements that you will hear from witnesses who will testify in this courtroom, and do you now say, Mr. Hanson, that you can judge this matter only on the statements that you will hear in this courtroom?

A Yes, sir.

Q By competent witnesses?

A Yes, sir.

Q I will come back in a minute or two on the question of facts and what your duties as a juror will be in relation to facts.

The Court stated to you that there had been an indictment returned by the Grand Jury of this County against Sam Sheppard charging him with murder in the first degree, and I think that you did answer that the mere fact that the indictment has been returned does not raise any presumption of guilt in your mind as to Sam Sheppard, is that right?

A Yes, sir.

Q Now, along those lines, the Court will instruct you eventually on the law, and he will say to you, and he will

say to all these other ladies and gentlemen, that you at no time are to consider the indictment, though you may take it to your jury room with you, as evidence in this case. Will you follow that theory of law?

A Yes, sir, I will.

Q The Court will say to you as a matter of law, and I will ask you now if you subscribe to it, that the purpose of an indictment is only to apprise this young man what he must stand trial for, that when the statements are given to the Grand Jury, when the evidence is submitted to the Grand Jury that brought about this indictment, only those witnesses that the State of Ohio deemed necessary were called upon to testify. Sam Sheppard wasn't asked to go before that body and give his side of the issue. Sam Sheppard wasn't permitted to take before that body any of his witnesses, so it became, in the parlance of law, an ex-parte hearing, known to you and I as laymen as a one-sided affair, and it is because of that, Judge Blythin will say, that under no circumstances whatsoever at any time are you to consider that indictment as evidence in this case, and you do subscribe to that theory of law, do you not?

A Yes, sir, I do.

Q Now, the indictment sets out the allegations that constitute first degree murder. They state in the indictment that this defendant unlawfully, purposely and of deliberate and

premeditated malice killed his wife, Marilyn Sheppard. Under our construction of fair play, and under our construction of the system of government that we now enjoy, his Honor will say to you, Mr. Hanson, that it is incumbent on Mr. Mahon, Mr. Danaceau and Mr. Parrino to prove each and every one of those elements that I just finished stating to you, to the point where they convince you beyond a reasonable doubt. That will be his instructions to you. You will follow those instructions?

A Yes, sir.

Q And he will add thereto, in line with that thought, that should they fail to satisfy you beyond a reasonable doubt that each and every one of those essential things that I have read off to you, that it would be your duty as a juror then to return a verdict of not guilty. Would you hesitate, if you were so instructed?

A No, sir.

Q He will say to you, Mr. Hanson, and he will say it to all these other ladies and gentlemen, that even though they prove one, two or three of those elements or things, that that in and of itself is not sufficient, should they fail to prove the fourth element to the point where you are convinced beyond a reasonable doubt, and it would then be your duty to return a verdict of not guilty. Do you subscribe to that?

A Yes, sir.

Q Now, in the thought that I have just expressed to you, I made mention that it was incumbent upon the State of Ohio to satisfy you beyond a reasonable doubt. It is our law that that burden never changes, it never shifts, it remains throughout this entire trial with the State of Ohio, and the Court will so say that that is the law. You have no notions of your own about that, do you?

A No, sir. I will be guided by the Judge.

Q There was some mention made by Mr. Parrino that you may be asked to consider two types of evidence, direct and circumstantial evidence. His statement was correct, and he did say to you, and rightfully so, that the Court will instruct you that both types of evidence are proper and should be dealt with in the proper manner.

The Court, however, Mr. Hanson, will state to you that when reliance for conviction is placed on circumstantial evidence, the facts and circumstances upon which the theory of guilt is placed must be shown beyond a reasonable doubt, and when taken together, when you consider all these facts that go to make up this circumstantial chain, the links, when taken together, must be so convincing as to be inconsistent with the claim of innocence and admit to no other answer, that is, all those facts, all those links that describe this picture in a circumstantial manner admit

to no other answer than the guilt of the accused. His Honor, Judge Blythin, will tell you that that is the rule that you are to follow governing the circumstantial evidence phase of this case. Will you follow that rule?

A I will be guided by the Judge, yes, sir, whatever he instructs.

Q Now, we did stress somewhat on the thoughts that were called to your attention because of the wide publicity that this case has received in the newspapers, radio broadcasts and television pictures. You won't permit yourself to come to any conclusion on anything that you may have read, heard or seen, will you?

A No, sir.

Q Because you know newspapers, they sometimes take a statement of fact and they give it their own interpretation -- that is their business, and they are entitled to their business -- but you won't permit any interpretation that they give to an issue to creep into the fair play that this young man is entitled to, will you?

A No, sir.

Q You said that you were connected with the Moreland Hills Association?

A Yes, sir.

Q Is that part of the government operation of that village?

A No, sir. It is anti-political.

Q Does it bring you in contact with any members of the police department?

A Well, yes and no. The police department -- the police are probably members of the Association, and the Association has at times asked the police department to stuff mail boxes or handbills or notices, or something like that, but that would be the extent of it.

Q Well, during some of the meetings that the Association held, was there ever any time that maybe one of the police officers who work in cooperation with the members of the Association had expressed an opinion to you?

A No, sir.

Q You will be called upon to consider in this case testimony of police officers who are connected with the police department of the City of Cleveland, and I believe -- or we anticipate officers who are connected with the police department of Bay Village.

Now, would the fact that this Association that you are active in cause you to give the testimony of a police officer more consideration than you would a layman because of the fact that he is a police officer?

A No, sir.

Q Can I assume that you would treat both with the same yardstick?

A Yes, sir.

Q And measure their testimony in accordance with the instructions on the law that the Court will tell you is applicable to that phase of the issue?

A Yes, sir.

Q Are there any members of your family who are connected with the medical -- who have a medical degree or are connected with any doctors?

A No, sir.

Q In this Association, or some of these other clubs that you belong to, are some of those members medical doctors, to the best of your recollection?

A No, sir, -- well, there might be some members in some of them, but I don't know.

Q Well, now, if chosen as a juror, eventually, and you were called upon to listen to the testimony of a person who is a doctor in the medical field as against a person who is a doctor of osteopathy, would you, because of the fact that one was connected with the medical field give him more consideration than you would the osteopathic physician?

A No, sir.

Q You would use the guidance of fair play in weighing the worth of their testimony, is that right?

A Yes, sir.

Q Dr. Gerber, Dr. Adelson, Dr. Sunshine, Dr. Chamberlain, and a young lady who is identified as Mary Cowan, are

associated with the County Coroner's office. Do you know any of those people directly or indirectly?

A No, sir.

Q Would you, if you were called upon to listen to them as witnesses, because of their connection with the Coroner's office, give their testimony greater consideration than you would doctors who were not connected with the Coroner's office?

A No, sir.

Q Mr. Hansen, in some of the articles that you were frank, and we appreciate it, in telling us about, that you read in the newspapers, do you recall the one that had to do with Susan Hayes? ✓

A Yes, sir.

Q In that article, or articles that dealt with that young lady, there was a statement attributed to her that was publicized by all the papers, that she had on occasions been intimate with Sam Sheppard. Do you recall that? ✓

A Yes, sir.

Q Now, having knowledge of that, did it create or would it create in your mind any ill-will toward this young man?

A No, sir.

Q Would it give you an idea, a preconceived idea of what your judgment in this case should be?

A No, sir.

Q And you wouldn't permit any outside people who may have knowledge of her statement, permit their feelings to creep into the thought that you have just expressed here, would you?

A No, sir, I would not.

Q Now, Mr. Hansen, I could probably go on and ask a good many questions of you and through the examination never bring out the fact of some thought that you may have in your mind why you feel you would want to be relieved of the responsibility, so I will ask you now to search your conscience, and search it very carefully, and I ask you to do this because, if you should qualify as an alternate juror and eventually take into this box the authority that goes with a juror, you shall take with you the responsibility, and you probably will never equal it again in your lifetime, the determination of the guilt or innocence of Dr. Sam Sheppard. More reaching than that, you will take with you a power that will give you the right to destroy the life of a fellow-human being.

149 Now, having that knowledge, knowing the great responsibility that will be yours, do you know of any reason or reasons that you can't deal with this young man fairly, impartially, and give him the same kind of a trial that you would want if the positions were reversed?

A No, sir, I know no reason why.

MR. GARMONE: Thank you very much.

THE COURT: The next peremptory is
with the State, gentlemen.

MR. MAHON: The State is satisfied
with this juror, your Honor.

MR. CORRIGAN: We accept the juror. ✓

THE COURT: Ladies and gentlemen
of the jury, and Mr. Hanson, we will now have a
few minutes' recess, and will you be careful to
observe the caution which the Court has expressed
to you:

Do not discuss this case at all, not even
among yourselves.

(Thereupon a recess was taken.)

(AFTER RECESS:)

Thereupon ANNA P. HANSON, being first duly sworn, was examined and testified as follows:

EXAMINATION OF PROSPECTIVE JUROR ANNA P. HANSON:

BY THE COURT:

Q Do I understand your name to be Anna H. or Anna P., is it?

A P.

Q Anna P. Hanson?

A Yes, sir.

Q You live at 569 Kenilworth Road. Is that in the city of Bay Village?

A Yes, sir.

Q And do you know the Sheppard home?

A Yes, sir.

Q On Lake Road?

A Yes, sir.

Q How far is it from where you live?

A I would say about a mile.

Q Are you east or west? Naturally you are south, I take it.

A Yes, sir.

Q Are you east or west of the Sheppard home?

A East.

Q Do you know the Sheppard family or Bay View Hospital or have

you had any connection at all at any time with them?

A Yes, sir.

Q Tell us, do you know some of the Sheppard family?

A I do volunteer work at the Bay View Hospital.

Q You what?

A I do volunteer work at the Bay View Hospital.

Q You have been a patient?

A No.

MR. GARMONE: She does volunteer work
at the Bay View Hospital.

Q Oh, yes. And would you be influenced in that connection in
consideration of evidence in this case?

A Well, I think I already have come to a conclusion. ✓

Q You have arrived at a conclusion?

A Yes, sir. ✓

Q And do you mean to say that that conclusion could not be
changed without some evidence? Could you right now forget
about your conclusion? ✓

A That would be hard to do.

MR. MAHON: Challenge for cause,
your Honor.

THE COURT: You will be excused.
Thank you very much.

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Thereupon CHARLES N. MARIN, being first
duly sworn, was examined and testified as follows:

EXAMINATION OF PROSPECTIVE JUROR CHARLES N. MARIN:

BY THE COURT:

Q Your name is Charles H. Marin, is it?

A Charles N. Marin.

Q Maybe it is N. It's blurred.

A N., N. like in Nicholas.

77 Q Charles N. Marin, M-a-r-i-n, and you live at 19116 Kewanee Avenue?

A No, sir. I have moved from there. I live at 19701 Mohawk.

Q You live at 19701 Mohawk?

A Yes, sir.

Q That is in the same -- what was that number?

A 19701.

Q That is in the same neighborhood?

A Yes.

Q That's right touching Euclid?

A Yes. My back yard is in Euclid.

Q Are you in Euclid?

A No. My back yard reaches Euclid.

Q Your back yard reaches Euclid. And have you a family, Mr. Marin?

A Yes, sir.

Q What does your family consist of?

A Two sons and a daughter.

Q How old are the sons and the daughter?

A One is 13 years old, the oldest, and the daughter is 11 and the youngest is seven years old.

Q And is the entire household just yourself and wife and the three children?

A That's right, sir.

Q And what is your occupation, if I may ask you?

A I operate a gasoline station.

Q You operate a what?

A Gasoline station. I own and operate a gasoline station.

Q Oh, gasoline station. And where is your gasoline station?

A At 18610 Lake Shore Boulevard.

Q And that is certainly in Euclid?

A That's in Euclid.

Q How long have you been in that business?

A Approximately a year and a half.

Q What did you do before that?

A Structural iron work.

Q How long have you lived on Mohawk?

A Two years.

Q And how long did you live on Kewanee before that?

A Approximately 12 years.

Q So between the two you have been there 14 years?

A That's right, sir.

Q Roughly?

A Roughly.

Q Have you ever served as a juror before?

A No, sir.

Q Have you ever been a witness in any case in any court?

A I was a witness to a divorce case.

Q In this court, in Common Pleas Court?

A In Common Pleas Court, I guess.

Q Is that the only case in which you have been a witness?

A Yes, sir.

Q Do you know any of those people who were named here this morning?

A No, sir.

Q Do you know the County Prosecutor, Mr. Frank T. Cullitan, or any member of his staff?

A I do not, sir.

Q Nor the sheriff or any member of his staff?

A I know some of the members of his staff, but I don't know them --

Q Offhand, you don't know who they are?

A No.

Q And do you know the coroner, Dr. Gerber, or any member of his staff?

A No, sir.

Q Have you read or heard or discussed this, read about or heard about or discussed this Sheppard case with anyone since the 4th day of July?

A I believe I have discussed it about the same as everybody, in general.

Q General discussion?

A That's right.

Q You have heard about it and read about it?

A That's right.

Q And as a result of what you read or heard or discussed, have you formed any opinion at all about the guilt or innocence of Dr. Sheppard?

A No, I haven't, sir.

Q Do you understand that it is the function of a jury to decide what the facts are, decide the guilt or innocence of a person charged with crime?

A That's right, sir.

Q And that the jury do it not on the basis of what they have read or heard from other people, but on the basis of the evidence that is produced from that witness stand where you now sit and the instructions of the Court as to the law which is applicable to a case of this kind, do you understand that?

A Yes, sir.

Q And do you understand, too, that without regard to where the

evidence comes from, whether it comes from a doctor, lawyer, police officer or common laborer, or even a gasoline station attendant, it is to be weighed on the same basis exactly at the outset, the only test being what is true and what is not true, do you understand that to be the rule?

A Yes, sir.

Q I would like to ask you if in a proper case you have any objection to capital punishment?

MR. CORRIGAN: Objection.

THE COURT: Overruled.

A I don't believe in capital punishment.

Q You don't believe in capital punishment?

A No.

Q How long have you entertained that opinion, that we should not have capital punishment?

A Well, I look at this way --

Q No, no. I am asking you how long you have entertained that opinion?

A Oh, I guess for a good many years.

MR. MAHON: Challenge for cause, your Honor.

THE COURT: You will be excused, Mr. Marin. Thank you, sir.

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Thereupon CHARLES H. HOHMEIER, being first
duly sworn, was examined and testified as follows:

EXAMINATION OF PROSPECTIVE JUROR CHARLES H. HOHMEIER:

BY THE COURT: ✓

Q Is your name Charles H. Hohmeier?

A That's right, sir.

Q Is that how you pronounce it?

A Hohmeier.

Q And you spell it H-o-h-m-e-i-e-r?

78 A That's correct.

Q And you live at 3126 West 33rd Street?

A No, sir. That address is now different.

Q You have moved?

A I moved, yes, sir.

Q And where do you live now?

A 5140 West Eighth, in Brooklyn Heights.

Q 5140 West Eighth?

A Eighth.

MR. MAHON: 80th?

PROSP. JUROR HOHMEIER: Eighth.

Q And that is in Brooklyn Heights Village?

A That's right.

Q How long have you lived where you now live?

A 13 months.

Q And how long did you live where you lived before, on West 33rd, was it?

A That's right. Seven years.

Q So the two of them together make almost nine years?

A Eight years, almost nine years.

Q Have you a family, sir?

A Yes, sir.

Q What does your family consist of?

A My wife and three children, three little girls.

Q Are they boys or girls?

A All girls.

Q All girls?

A That's right.

Q The girls are in the majority here this morning.

And how old are they?

A The oldest will be eight, the middle one will be six and the youngest will be three very shortly.

Q Is the entire household composed of yourself, your wife and the three girls?

A That's right.

Q No one else?

A No one else.

Q And what is your occupation?

A I am a postal clerk for the Post Office Department.

Q And how long have you been a postal clerk?

A About 17½ years.

Q And you work indoors?

A Yes, in the main Post Office.

Q You work indoors in the main Post Office?

A Yes.

Q Have you ever served as a juror before?

A No, sir, I haven't.

Q Have you ever been a witness in any case in any court?

A No, sir, except in a military court.

Q Except in what?

A A military court.

Q And how long has that been, sir?

A Oh, that was while I was serving in the Army, from '42 until '45, and various intervals in there I was on the Court Martial Board, and at various intervals I was involved.

Q Did they court martial you?

A No, sir. I was on the Board.

Q Involving the court martial of a lad who was in the Army, is that right?

A That's right.

Q Do I understand that -- was your participation confined to making a statement or giving testimony?

A No, sir. I served as a member of the Board. I was defense counsel for a period of time.

Q You participated in an official capacity?

A In the official Board.

Q I see. All right. Have you discussed, read about or heard about this Sheppard case before?

A Oh, yes, sir.

Q And as a result of what you have read and heard, discussed with other people, have you formed any opinion of your own as to the guilt or innocence of Dr. Sheppard?

A No definite opinion, no, I wouldn't say so.

Q And have you expressed any opinion at any time to anyone about it?

A No, no opinion. Possibly a desire, but no opinion.

Q You have no definite opinion now, I understand?

A No, sir.

Q Do you understand, Mr. Hohmeier, that the function of a jury in a case of this kind is to decide the guilt or innocence of a person charged with crime?

A Yes, sir.

Q And that the jury is the only body that can decide the guilt or innocence of a person charged with crime?

A Yes, sir.

Q That the jury do so on the basis of consideration of the evidence in this case and on nothing else beyond the instructions of the Court as to the provisions of law which are applicable?

A Yes, sir.

Q Do you understand that?

A Yes, sir.

Q And do you understand that it is the function of courts and juries to weigh evidence of witnesses all on the same basis, without regard to whether the witness is a professional man or a public official or just a common laborer, it makes no difference, that their testimony is to be weighed on the same basis exactly and only one test put to it, and that is what is true and what isn't true; do you understand that to be so?

A Yes, sir.

Q And you understand, too, that a person who is charged with crime is presumed to be innocent until a jury is satisfied on the basis of all of the evidence and the law as it is presented to them --

A Yes, sir.

Q -- that he is guilty beyond a reasonable doubt?

A Yes, sir.

Q Have you any objection in a proper case to capital punishment?

MR. CORRIGAN: Object. ✓

THE COURT: Overruled.

A Just what do you mean, sir, by a proper case?

Q Are you against capital punishment?

MR. CORRIGAN: Object.

Q You may answer.

A Yes, sir. I stated when I was examined previously two years ago that I would not want to be involved in a case with capital punishment.

MR. MAHON: Challenge for cause, ✓
your Honor.

THE COURT: You will be excused,
Mr. Hohmeier. Thank you very much, sir.

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Thereupon ANN MARIE NUNN, being first duly sworn, was examined and testified as follows:

EXAMINATION OF PROSPECTIVE JUROR ANN MARIE NUNN:

BY THE COURT:

Q Will you just speak distinctly, loud and directly into that mike, please?

I am not sure, is it Ann Marie Hunn?

A Nunn.

Q N-u-n-n?

A Right.

Q Yes, it is Nunn. My copy is very blurred.

You live at 6340 State Road?

A Yes.

Q Would that be in Parma?

A Yes.

Q Is it Mrs. Nunn?

A Yes.

Q How long have you lived there, Mrs. Nunn?

A About seven years.

Q And where did you live, generally, before that?

A In Cleveland.

Q You lived in the City of Cleveland?

A Yes.

Q And is your husband living?

A Yes.

Q Do you have a family?

A Yes.

Q What does the family consist of?

A One daughter.

Q How old is she?

A 18.

Q And what is your husband's name, please?

A James L. Nunn.

Q James R. Nunn?

A James L.

Q James L. Nunn. And are you employed?

A Yes.

Q What is the nature of your employment?

A I am an addressograph operator.

Q You are an addressograph operator?

A Yes.

Q And where do you operate your addressograph?

A Central National Bank.

Q Which office?

A Main office.

Q Downtown?

A Yes.

Q In the Midland Building?

A That's right.

Q And how long have you been at the Central National?

A About three years.

Q And what is your husband's occupation or business?

A He is a weather stripper.

Q And is he self-employed?

A Yes.

Q Or employed by others?

A Self-employed.

Q And he is a weather stripping contractor in the neighborhood?

A Yes.

Q And how long has he been in that business?

A About 20 years.

Q A long time. Mrs. Nunn, do you know any of those gentlemen who were named here this morning?

A No, I don't.

Q Do you know the County Prosecutor, Mr. Cullitan, or any member of his staff?

A No.

Q Or the sheriff, Mr. Sweeney, or any member of his staff?

A No.

Q The coroner, Dr. Gerber, or any member of his staff?

A No.

Q Are there any members of your family -- and when I mention family, I include your husband's too, if I may -- any members of your family who are members of any Police

Department?

A No.

Q Or law-enforcing agency at all?

A No.

Q Have any members of your family ever been visited by violence at the hands of another, if you know?

A No.

Q I don't know whether I asked you, I think perhaps not, but have you ever served as a juror before?

A No.

Q Have you ever been a witness in any case in any court before?

A Just a small one.

Q What do you mean by small one? They are all important. I mean, what kind of a case, a civil case, lawsuit of some kind?

A Well, I was a witness for the city of Parma.

Q And was it a criminal offense that was charged?

A No.

Q A civil matter?

A Civil.

Q I see. How long has that been since?

A That's about six years ago.

Q You have read and heard and I suppose discussed the Sheppard case, have you?

A Yes.

Q Have you read about it in the newspapers? ✓

A Yes.

Q Have you heard radio comments? 2

A Yes.

Q Discussed it with other people or other people discussed it with you? ✓

A Yes.

Q As a result of any of those things at all, as a result of anything that has happened, have you formed an opinion as to the guilt or innocence of Dr. Sheppard?

A Yes. ✓

Q You have?

A Yes.

Q Could you now disregard that opinion entirely and start from scratch to listen to the evidence and be guided only by it?

A No.

MR. MAHON: Challenge for cause, your Honor.

THE COURT: You will be excused, Mrs. Nunn. Thank you very much.

(Thereupon Prospective Juror Ann Marie Nunn was excused.)

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Thereupon BETTY J. RICHTER, being first duly sworn, was examined and testified as follows:

EXAMINATION OF PROSPECTIVE JUROR BETTY J. RICHTER:

BY THE COURT:

Q Will you speak directly into the mike, please?

Is your name Betty J. Richter?

A Yes.

Q R-i-c-h-t-e-r?

A Yes.

Q You live at 5306 West Ridgewood Drive in Parma?

A Yes.

Q That's east of Ridge Road and west of State, I take it?

A That's right.

Q And is it Mrs. or Miss?

A Mrs.

Q And what is your husband's name?

A Len G.

Q How do you spell it?

A L-e-n.

Q And you gave a middle initial?

A That's right.

Q What is it?

A G.

Q Len P.?

A G as in George.

Q Richter?

A Yes.

Q Have you any family?

A Yes, I do.

Q Tell us about that?

A I have a daughter 12 years old.

Q And how old is the daughter?

A 12.

Q And the boy?

A I have no boy.

Q Oh, I thought you said you had a boy. Just one daughter?

A That's right.

Q And are you employed, Mrs. Richter?

A No, I am not.

Q How long have you folks lived on Ridgewood?

A Four years.

Q Where, generally, did you live before that?

A In Brooklyn, Ohio.

Q What is your husband's occupation?

A Insurance.

Q Insurance?

A Yes, sir.

Q Is he in business for himself or is he employed by someone else?

- A He is in business for himself.
- Q In other words, he is an insurance agent?
- A Agent.
- Q Or solicitor?
- A That's right.
- Q Does he have his office in Parma?
- A We have an office at home and he has an office downtown.
- Q And where downtown is his office?
- A In the National City Bank Building.
- Q And how long has he been in that business?
- A Eight years.
- Q Have you ever served as a juror before?
- A No.
- Q Have you ever been a witness in any case in any court before?
- A No.
- Q Do you know any of these good people who were named here this morning?
- A Yes, I do.
- Q Who do you know?
- A I met Dr. Sheppard socially.
- Q You what?
- A I met Dr. Sheppard socially.
- Q You have met Dr. Sheppard personally?

MR. MAHON: Socially.

MR. GARMONE: Socially.

MR. CORRIGAN:

Socially.

Q Oh, socially. And how long ago?

A About two years ago.

Q Was it on one occasion or more than one occasion?

A One occasion.

Q And would that have any influence upon your judgment?

A No, it would not.

Q In any issue between Dr. Sheppard and the State here?

A No.

Q Have you ever been to the Sheppard home?

A No.

Q Or the Sheppards to your home?

A No.

Q You perhaps could answer this yes or no: Was it just an incidental meeting in a social occasion?

A Yes, it was.

Q Do you know the prosecuting attorney, Mr. Frank Cullitan, or any member of his staff?

A No, I do not.

Q Or the sheriff or any member of his staff?

A No, I do not.

Q Or the coroner, Dr. Gerber, or any member of his staff?

A No.

Q I take it that you have read about this case, have you?

A Yes, I have.

✓

Q And heard comments and heard discussions of it? ✓

A Yes.

Q And have you engaged, yourself, in discussions of it?

A Yes, I have.

Q As a result of anything that you heard or have done in that connection, have you ever formed an opinion of your own as to the guilt or innocence of Dr. Sheppard? ✓

A No, I have not.

Q Have you any objection in a proper case to capital punishment? ✓

MR. CORRIGAN: Object.

THE COURT: Overruled.

A No, I have no objection.

Q Do you understand, Mrs. Richter, that it is the function of a jury and the function of the jury alone to decide the guilt or innocence of a person charged with a crime on the basis only of the testimony that comes from that witness stand where you now sit and the instructions of the Court as to the law applicable to the case?

A Yes.

Q You understand that?

A Yes.

Q And do you understand, too, that when testimony is produced from that witness stand, at the moment it is produced, whether it is produced by a professional man, a public office holder

or common laborer, police officer or anyone else, that it is to be put by the jury to the same tests as the testimony of any witness anywhere at any time, that test being only what is the truth; do you understand that to be true?

A Yes, I do.

Q Have you since the 4th day of July and particularly since your name has appeared in the paper as having been called into this court in this case, have you received any communication of any kind from anybody, by mail, by telegraph, telephone or otherwise?

A No, I have not.

Q And do you believe that you could, if selected here as a juror and if called upon to do so, listen to the evidence here carefully and to the instructions of the Court as to the law and be absolutely fair and impartial and decide the case here only on those two factors, the evidence and the law?

A Yes.

MR. MAHON:

Mr. Danaceau.

THE COURT:

This gentleman is Mr.

Danaceau. He is an Assistant County Prosecuting

Attorney. He would like to put a few questions to you.

EXAMINATION OF PROSPECTIVE JUROR BETTY J. RICHTER:

BY MR. DANACEAU:

Q You appreciate that the questions that I will ask and that counsel for the defense will ask you may be of a personal nature, but it is not because we particularly want to pry into your private affairs. They are questions that we have to ask in order to ascertain whether or not you will qualify as a juror, and I take^{it}/that you won't consider them as personal, whether they come from me or from the attorney on the other side of the table.

Now, I believe you said that you incidentally met Dr. Sheppard about two years ago?

A That's right.

Q At what sort of an occasion was it?

A It was a house party.

Q At whose home?

A Mr. Earl Benjamin's.

MR. CORRIGAN: Earl what?

PROSP. JUROR RICHTER: Benjamin.

Q And you were there with your husband?

A No, I was not.

Q And was the late Marilyn Sheppard there, too?

A Yes, she was.

Q You did not know Dr. Sheppard before?

A No. I only heard of him.

Q You merely met him there incidentally?

A That's right.

Q And you haven't met him since, I take it?

A No, I have not.

Q Dr. Sheppard is not a personal acquaintance of either yourself or your husband apart from that incidental meeting?

A That's right.

Q You say it was about two years ago. Was it in the winter season?

A No. I believe it was in July.

Q In July?

A Yes.

Q What was the nature of the house party?

A It was just a house party, just a gathering.

Q Just a gathering of persons invited to the home of Mr. Benjamin?

A That's right.

Q By Mr. --

A By Mr. and Mrs. Benjamin.

Q Now, if in the course of these proceedings Dr. Sam Sheppard should take the witness stand and testify, it would be the function of the jury to weigh his testimony and to decide what weight to give his testimony, what credibility to give his testimony. Would your having met Dr. Sheppard upon this occasion affect your judgment one way or the other as to

what weight to give his testimony, what credibility to give his testimony?

A No, I wouldn't say that.

Q You are quite sure it would not embarrass you in the slightest?

A No, positive.

Q You are positive of that?

A Yes.

Q Now, I believe you also stated that your husband is in the insurance business and that his office is in the National City Bank Building?

A Yes.

Q On what floor?

A Five, 521.

Q And what company is he associated with?

A That's the Confederation Life Insurance.

Q Confederation Life?

A Yes.

Q Do you or your husband, to your knowledge, know a Mr. Roach, who is also in the insurance business and has his office in the National City Bank Building?

A No, I do not know him.

Q You don't recall that name at all?

A No, never.

Q And you don't recall Mr. Richter ever having mentioned the

name of Mr. Roach?

A No, sir.

Q Does your husband have any associates, any partners or associates in his business?

A No.

Q He is in business individually?

A That's right.

Q By and for himself?

A Yes.

Q And how long did you say he was in that business?

A Eight years.

Q And what did he do prior to that?

A Well, he was in the Service twice, in the Service.

Q In the Service?

A Air Force twice, the second World War and Korea.

Q Now, you understand, Mrs. Richter, the nature of this case?

A Yes.

Q The defendant is charged with first degree murder, and I believe you stated that you are not opposed to capital punishment?

A No, I am not.

Q Now, the Grand Jury has indicted Dr. Sheppard, and you understand that the indictment itself is merely a charge, it is not evidence?

A That's right.

Q And that it is the responsibility of the State of Ohio, through the Prosecutor's office, to present evidence which will prove that he is guilty beyond a reasonable doubt, do you understand that?

A That's right.

Q And that he comes into this courtroom with a presumption of innocence, and that that remains with him until he is so proven guilty, you understand that?

A Yes, I do.

Q Now, in a courtroom where a man is tried, the jury tries the facts, that is, they decide what the facts are. The Judge, Judge Blythin, will give the jury the principles of law which they are to apply to those facts.

And on the basis of the facts that they find and the law given to them by the Judge, the jury decides the guilt or innocence of a person charged with a crime.

Now, to ascertain, to decide what the facts are, the jury must receive the evidence from witnesses who will be brought in and who will be seated right in the same chair that you are presently occupying. They will testify under oath, and it will be the function of the jury -- and by the way, you are being examined as an alternate juror so that in case of a vacancy later on in the course of the proceedings you can be substituted for one of the original jurors -- it will be the function of the jury to find out where the truth

lies because it is their job to search for the truth, and in order to find out where the truth lies they have to weigh the evidence that is given them by the witness to decide which of the witnesses are telling the truth, which of the witnesses are more qualified to testify concerning the subject matter to which they testify, and that the jury may believe or disbelieve any witness, they may believe part of a witness's story and disbelieve the remainder. That is all the function of the story.

Now, when witnesses are brought here, they come here upon an equal basis and you are to treat all alike, whether they be laymen or people holding public office, professional people or police officers, you treat them all alike and you don't believe one as against the other simply because of the position that they occupy or the title that they hold. You understand that?

A Yes.

Q However, there are certain guides, tests or standards, rules, call it what you may, by which a jury may weigh the testimony, give credibility to the testimony of witnesses.

For example, if a witness has an interest in the outcome of the case, in other words, there is a possibility of being partial to one side or the other, and that is a matter that the jury may take into consideration. You understand that, I take it?

A (Witness nods head affirmatively.)

Q Another guide is whether the witness has an opportunity to know the facts concerning which he is testifying or she is testifying. Another guide is: Is the witness's story reasonable, probable, or is it, on the contrary, unreasonable or improbable?

And the jury has the right to give greater weight and credibility to a reasonable, probable story and less to an unreasonable and improbable story. You understand that, do you not?

A I do.

Q In fact, you are permitted and instructed to apply all of your personal experiences in life to decide where the truth lies, and you will do that, will you not?

A Yes, I will.

Q And the Court will also advise you that you may consider both direct evidence and circumstantial evidence, both types of evidence are perfectly proper. You will do that?

3 A Yes, I will.

Q The Court will instruct you as to these types of evidence. You will take the Court's instructions, will you not?

A (Witness nods head affirmatively.)

Q You appreciate, do you not, that in a case such as this, upon proper proof, that a jury may bring in a verdict of guilty, which would carry with it the penalty of death?

A Properly proven.

Q And that is a very serious matter. It imposes a very serious responsibility upon counsel for the State, counsel for the defendant and the jury. And are you prepared to assume that responsibility?

A Yes, I believe I am.

Q Are you prepared to sit here as a juror, receive the evidence from the witnesses, the law from Judge Blythin and decide this case solely on that evidence and that law and on nothing else?

A That's right.

Q And you will not be prejudiced or biased one way or the other?

A No.

Q Nor will you permit sympathy for the defendant or for anyone else to enter into the picture whatsoever?

A No.

Q You are prepared to decide this case fairly and squarely between the State of Ohio and the defendant and let the chips fall where they may?

A That's right.

MR. DANACEAU:

Pass for cause.

THE COURT:

Do you want to start?

Perhaps your examination ought to come in one. I think that is the fairest way to do it.

Ladies and gentlemen, we will now be adjourned
until 1:15 this afternoon. And will you, and you
too, Mrs. Richter, please, please be careful not to
discuss any phase of this case at all during the
noon hour?

Without any formality at all, we will be
adjourned until 1:15 this afternoon.

(Thereupon an adjournment was taken at 11:50
o'clock a.m. to 1:15 o'clock p.m. of the same day,
at which time the following proceedings were had:)

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Monday Afternoon Session, November 1, 1954.
1:30 o'clock p.m.

Thereupon BETTY J. RICHTER resumed the stand
and was examined and testified further, as follows:

MR. DANACEAU: If the Court please,
may I ask a few questions before we pass?

THE COURT: All right.

EXAMINATION OF PROSPECTIVE JUROR
BETTY J. RICHTER (CONTINUED)

By Mr. Danaceau:

Q When did you receive the summons to appear as a prospective
juror?

A Friday.

Q Of this past week?

A Yes, sir.

Q And since that time have you discussed this case with anyone
any place?

A Not in detail, no.

Q Did you have occasion to attend some affair at the Sleepy
Hollow Golf Club Saturday night?

A Yes, I did.

Q And what was the nature of that affair?

A It was just a dance.

Q Under whose auspices?

A Just given by the Sleepy Hollow Country Club.

Q Did the Brooklyn Builders Exchange have anything to do with that dance?

A No, not that I know of.

Q Now, at this dance, you were there with your husband, I take it?

A Yes, I was.

Q Was there any discussion in your presence concerning this case?

A Just the fact that I had to appear for jury duty. ✓

Q Did you express an opinion about any matter in connection with this case at that time?

A No, I didn't.

Q You did not?

A No, I didn't.

Q Did anyone discuss it in your presence?

A Yes, they did.

Q Was any opinion expressed in your presence?

A No, nothing definite. ✓

Q Who were some of the parties who discussed the matter in your presence?

A Well, we were with Mr. and Mrs. Bert Shaffer, and I met Mr. and Mrs. Joe Lessman thereabout, but there was nothing in detail.

Q You said nothing in detail several times. What do you mean

by that?

A Well, outside of the fact they knew that I was going to appear for this alternate jury, and that's about all that I can think of.

Q Would you refresh your recollection, or --

A Well, they asked me how I got my summons, and I told them that someone came to the door, gave me my summons on Friday. And how did I feel about going onto something like this. And that's about all I can recollect.

Q How late were you there?

A At the Country Club?

Q Yes.

A I think until about one o'clock, one.

Q And during what part of the evening was it that these discussions took place? Was it early or late?

A It was before we left. Mr. and Mrs. Arthur--Dr. and Mrs. Arthur, he is a veterinarian, we met at their home for cocktails, and then all this about me coming down to the jury is all that --

Q It was after you had cocktails?

A Then we went to the dance, and then nothing was discussed there at the dance.

Q What time did you get to the dance?

A About 10 o'clock.

Q And you remained there until about one o'clock?

A Yes.

Q Anything said beyond what you have disclosed?

A No.

Q Who is Dr. Arthur?

A He is a veterinarian.

Q Where does he live?

A He lives on Monmouth Avenue in Parma.

Q Now, when you mentioned a Mr. Benjamin, was it at their home, this party that took place two years ago?

A Yes.

Q Was it a doctor?

A No. It is Mr. Benjamin.

Q What is his first name?

A Earl.

Q What is Mrs. Benjamin's name?

A Mrs. Lucille.

Q And where is their home?

A On West 140th.

Q Do you know the address?

A Offhand, I don't.

Q Near what main thoroughfare is it?

A It is close to Lorain Street.

Q Do you know what the occupation of Mr. Benjamin is?

A Yes. He is the owner of the Weldon Construction Company.

Q Now, at this party do you recall any mutual friends of

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yourself and the Sheppards?

A You mean this party two years ago?

Q Yes.

A Well, their friends--no, I believe they are patients of the Sheppard family.

Q Who are patients?

A The Benjamins.

Q The Benjamins are patients of Dr. Sam Sheppard?

A That's right.

Q And do you know of anybody else there that were either friends or patients of Sam Sheppard or any of the other members of the Sheppard family?

A No, I don't.

Q Had you ever played golf with any member of the Sheppard family?

A Yes.

Q With whom?

A I played golf with Marilyn. ✓

Q When was this?

A That was about -- after the party, about two years ago in August.

Q Where did you play golf with Marilyn?

A At Ridgewood Country Club.

Q How often had you played golf with her?

A Just once.

Q Were you the only two, or was there a foursome?

A No. Mrs. Lucille Benjamin was with us.

Q Lucille Benjamin was with you?

A Yes.

Q Did you meet Marilyn Sheppard or any other member of the Sheppard family after that?

A No.

Q Is that the only time that you met anyone of them apart from this party that you have mentioned?

A That's right.

Q Did you ever talk to Marilyn Sheppard on the telephone?

A No, I did not, outside of arranging this golf date. We might have contacted each other on the phone, but that's -- I'm not sure about that.

Q Do you recall who arranged this golf date?

A Well, I think at the time we talked that we all enjoyed playing golf, and I think we made a tentative arrangement at the time, and then a few weeks after that the three of us met and played golf.

Q Do you recall anybody else at that party other than the Benjamins who were acquainted with the Sheppards and is acquainted with you?

A No.

Q Now, knowing Marilyn Sheppard, as you have testified to, you played golf with her, knowing Dr. Sam Sheppard, knowing

that this case relates to the charge that Dr. Sam Sheppard killed Marilyn Sheppard, and knowing that this case involves the penalty of death should the jury find the defendant guilty, and not recommend mercy, do you believe that you could sit here as a juror?

A Well, I feel that I don't know -- I didn't know either Dr. Sheppard or Marilyn that well. I met them just on this slight occasion, and there are several people that you meet slightly, you don't get to know them personally, but I don't feel as though it were a personal friend.

Q Won't the fact that you had met them, know them, played golf with them, with Marilyn --

A No, truthfully, no, it does not affect me that way. If I had known them better and known them longer, perhaps that would have an effect, but I don't feel that way now.

Q You realize, of course, that Dr. Sam Sheppard may be in that witness stand?

A I realize that.

Q Won't your past relationship with Marilyn Sheppard, your being at this party, played golf with Marilyn -- won't that have some tendency, at least, to affect your attitude in this case?

A The way I feel right now, it doesn't. I mean if you believe it will affect me, why, then that is for you to decide, but the way I feel now it does not. I mean, like I say, I didn't

know them that well. Had I been intimate, close friends, I could understand that.

Q There are members of the Sheppard family who will also take that witness stand. Won't your past association with Marilyn Sheppard and your association with Dr. Sam Sheppard, who is accused of her murder, won't that have a tendency to affect your judgment in evaluating their testimony?

A No. I don't know Dr. Steve's wife, and I don't know Dr. Richard's wife. I never met them.

Q Let me ask you this final question: In view of your past association and relationship, could you possibly join in a verdict that would take the life of Sam Sheppard?

MR. CORRIGAN: Wait a minute. Object to that question. That is an improper question.

THE COURT: I think that is right.

Objection will be sustained to it in that form.

Q In view of your past association with Marilyn Sheppard and Dr. Sam Sheppard could you, no matter what the evidence was in this case, join in a verdict that would take the life of Dr. Sam Sheppard?

MR. CORRIGAN: I object to that.

MR. GARMONE: Object to the question as to its form.

THE COURT: I think the objection will be sustained.

Q Could you, in view of your past association with Dr. Sam Sheppard and Marilyn Sheppard, in a proper case, properly proved, join in a verdict to take the life of Dr. Sam Sheppard?

MR. CORRIGAN: Object to the question. There is only one thing that you can ask a juror on voir dire, and that is whether they have opinions that would prevent them from entering in a verdict of first --

THE COURT: I don't think it is quite that narrow.

MR. CORRIGAN: That is trying to put the words into the woman's mouth.

MR. DANACEAU: No one is trying to put words in the woman's mouth. We want a fair jury for the State as well as for the defense.

MR. CORRIGAN: The determination of first degree murder and a chair verdict is entirely in the hands of the jury.

MR. MAHON: Of course it is in the hands of the jury. That is what the question is being asked for.

THE COURT: The Court will sustain the objection in its present form. Let me just see if I

can clear that up, and Mr. Corrigan can make his objection, if he wants to.

Could you, Mrs. Richter, in spite of your associations, whatever they were, in a proper case, and assuming that all of your fellow-jurors and you were in unison on the matter, could you, if they felt from all the evidence that Sam Sheppard was guilty beyond a reasonable doubt of murder in the first degree, and the jury together did not deem it proper to recommend mercy, could you join in a verdict of guilty, if you knew at that time that that would mean taking his life?

MR. CORRIGAN: I object. It is an entirely improper question that the Court has addressed to the juror.

THE COURT: Objection will be overruled.

MR. CORRIGAN: I except.

THE COURT: Does that cover your --

MR. DANACEAU: That is the question, yes.

MR. CORRIGAN: I except. The only thing that this Court or this prosecutor or anybody else in this courtroom can do is to state the law to the juror on voir dire.

THE COURT: The Court has ruled.

MR. CORRIGAN: Not to try to find out if a juror will join in a verdict of first degree murder to send a person to the chair. It is an entirely improper question.

THE COURT: Mr. Corrigan, it is asked in every case of murder in the first degree that this Court has tried or heard.

MR. CORRIGAN: You have not tried to find if a juror will join in a verdict of first degree murder if the other eleven -- suppose one person won't join in it?

THE COURT: Let's not have argument about it now. The Court has ruled and the objection will be overruled.

Now, do you now understand the question?

PROSPECTIVE JUROR RICHTER: Yes, I do.

THE COURT: All right. Have you an answer to it?

PROSPECTIVE JUROR RICHTER: Well, like I said before, my acquaintance with them was so slight that I don't think -- I know it wouldn't influence my opinion.

THE COURT: No, that doesn't answer the question. You listen to the question.

MR. CORRIGAN: Here you are emphasizing the first degree, the chair.

MR. DANACEAU: We object to this comment.

MR. CORRIGAN: I have a right to talk in this courtroom, sir.

MR. DANACEAU: Yes, but you have no right to talk in such a manner as to prejudice --

MR. CORRIGAN: You people and the Judge are emphasizing the chair in this case.

THE COURT: Just a minute, gentlemen. The Court has ruled, and the Court will permit

the question to be answered. Let her answer.

(Thereupon the question was read by the reporter.)

MR. CORRIGAN: I object to the question.

THE COURT: Overruled and exception.

PROSPECTIVE JUROR RICHTER: Yes.

THE COURT: Your answer is yes?

PROSPECTIVE JUROR RICHTER: Yes.

MR. DANACEAU: We challenge for cause.

MR. CORRIGAN: What cause has been shown?

THE COURT: You challenge for cause?

MR. DANACEAU: Yes, sir. We think that the facts speak louder than the mere conclusion.

THE COURT: What is the specific cause?

MR. DANACEAU: The specific cause is her relationship with the deceased as well as with the accused. This case involves nothing other than an act of the deceased -- of the accused against the deceased. How a person with that association can sit as an impartial juror, no matter what she says, I cannot conceive.

MR. CORRIGAN: We object to the challenge.

THE COURT: The Court will excuse Mrs. Richter.

MR. CORRIGAN: On what ground, your Honor?

THE COURT: On the ground that her association has been so close, for the moment, at least, with both the decedent and the accused, and it is rather difficult --

MR. CORRIGAN: I beg to call the Court's attention to Section 2945.25 of the General Code of Ohio, which binds this court, which provides that a person shall be challenged for cause: that he was a member of the Grand Jury; that he has formed or expressed an opinion; that in a capital case he is opposed to -- does not believe in capital punishment; that he is related in the fifth degree of kindred. And challenges shall be allowed as of Section 2313.41 to 43, which provides: "A challenge for cause shall be conviction of a crime which involves moral turpitude; that he has an interest in the cause; that he is a party to an action pending between parties; that he is an employer or employee or a spouse, parent, son or daughter of the employer;

that he is a spouse or party to an action in a trial pending in any part of this county; that he has served as a juror in this court in the past twelve months."

Now, where does the Court find a challenge for cause in this juror?

THE COURT: May I ask one question, Mr. Corrigan? Do you claim that those grounds are exclusive?

MR. CORRIGAN: I claim they are exclusive.

THE COURT: Oh, no. The statute says that a prospective juror may be challenged for any of these things, but it does not say that they are exclusive as any place that the Court has been able to find, and many prospective jurors, as you well know, are excused for reasons that are not mentioned within those provisions of the statute.

MR. CORRIGAN: Why, we challenged a woman for cause here, your Honor, a week ago, who had expressed opinions, and the Court overruled us. Now you take this woman here, because she is acquainted with -- she met that man once, is that a challenge for cause? Well, of course, you are the

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Court, we are just the lawyers.

MR. DANACEAU: If the Court please,
in order to avoid any further argument, we withdraw
the objection at this time, -- withdraw the chal-
lenge at this time.

MR. COPRIGAN: Well, the Court has
already excused her.

THE COURT: I have already ex-
cused the lady. You will be excused, Mr. Richter.

MR. COPRIGAN: Note our exception,
your Honor. ✓

THE COURT: Yes, sir.

(Prospective Juror excused.)

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Thereupon LOIS H. MANCINI, being first
duly sworn, was examined and testified as follows:

EXAMINATION OF PROC. JUROR LOIS H. MANCINI

By the Court:

Q Is your name Lois H. Mancini?

A Yes, it is, sir.

Q And you live at 16920 Stockbridge Avenue?

A Yes, sir.

Q That is southeast?

A Yes. Lee and Harvard.

Q Is it Mrs. or Miss?

A It is Mrs.

Q And what is your husband's name, please?

A William.

Q And have you a family?

A Yes, I have. I have two daughters.

Q How old are they?

A Seven and one and a half years old.

Q And are you employed?

A No, I am not. I am a housewife. I do work for the Election
Board on voting days.

Q Oh, well. You are not steadily employed?

A No, I am not.

Q Or regular part-time employed?

A No, sir.

Q Is the entire household consisting of yourself and your husband and two children?

A Also my mother lives with me.

Q How long have you lived on Stockbridge?

A Six and a half years.

Q Did I ask your husband's first name? I think I did.

A Yes.

Q What is his occupation or business?

A He is an automobile mechanic.

Q Is he self-employed or employed by others?

A He is employed by others.

Q Who is he employed by?

A Sills Chevrolet on Kinsman Road, Shaker Heights.

MR. MAHON: What is the name of
the company?

PROS. JUROR MANCINI: Sills. S-i-l-l-s.

Q Sills Chevrolet on Kinsman. How long has he been so employed, roughly?

A About six years, I believe.

Q Have you ever served as a juror before?

A No, sir, I haven't.

Q Have you ever been a witness in any case in any court?

A No, sir, I haven't.

Q I named all these gentlemen around the trial table this

morning. Do you know any of them?

A No, sir, I don't.

Q Do you know the County Prosecutor, Mr. Cullitan, or any member of his staff?

A No, sir, I do not.

Q Or the sheriff, Mr. Sweeney, or any member of his staff?

A No, sir.

Q The Coroner, Dr. Gerber, or any member of his staff?

A No, sir, I do not.

Q Are there any members of your family, and in that I'd like to include your husband's family as well -- who are members of any Police Department or any law enforcing agency anywhere, if you know?

A No, sir.

Q Have any members of your family been visited by violence at the hands of another at any time, if you know?

A No, sir, other than -- I don't know whether that makes any difference, but I had two brothers killed in World War II.

Q You had two brothers --

A Killed in World War II, but not criminally.

Q I am speaking outside of war now.

A No, sir.

Q I am speaking of crime, somebody robbed them or attacked them somewhere.

A No, sir.

Q Have you read or heard of this Sheppard case before?

A Yes, sir, I have.

Q And by what means did you, just generally?

A The newspaper and radio and television.

Q And have you discussed it with others or others discussed it with you?

A Yes, sir.

Q And as a result of what you read, what you heard or what you discussed, or others discussed in your presence, have you formed any opinion at all as to the guilt or innocence of Dr. Sheppard?

A You mean at any time at all?

Q Yes.

A Yes, I have had various opinions.

Q Have you an opinion now?

A No, sir, I haven't.

Q How long is it since you entertained an opinion?

A Well, sir, I don't know if I can pin it down to any time.

Q But you are sure that you do not have an opinion now, is that right?

A Yes, that is true.

Q I believe --

A I believe I'd have to hear the whole case before I would form an opinion.

Q What?

A I'd have to hear the whole case before I would form an opinion.

Q You would have to hear the entire case before you formed any opinion. Do you understand that that is the function of the jury?

A Yes, I do.

Q And that the jury and the jury alone determine the guilt or innocence of a person charged with crime?

A Yes, sir.

Q And do you understand, too, that the jury does that on the basis of the evidence that is produced from this witness stand and the instructions of the Court as to the law, and from no other source whatever?

A Yes, sir.

Q And do you understand, too, that evidence, when it is produced on that witness stand, is to be weighed in the same scales without regard to who produces that evidence, whether he be a professional man, public official police officer or common laborer, that they are all on the same basis on that witness stand at the outset, and that the only test is the test of truth, and that the jury must weigh all of the evidence, having in mind that they are seeking only the truth? You understand that?

A Yes, sir.

Q Have you any objection, in a proper case, to capital

punishment?

A No, sir, I haven't.

Q Have you received any communication of any kind whatever about this case, or that could be directed to it, by letter, by telegram, by phone, or otherwise, since the 4th of July of this year?

A No, sir.

Q Have you discussed this matter with anyone since your name has appeared in the newspapers as a prospective juror?

A Well, none than having been called to come down here.

Q What were they calling about?

A Well, to tell me that they saw my picture or read my name in the paper.

Q Have you had any discussion with anyone of the case itself since you were called as a witness here -- as a prospective juror here?

A Do you mean with anyone here, any of the other prospective jurors?

Q No. Since your name appeared in the paper have you had any discussion about the case itself as distinguished from a discussion that you mentioned, that they were discussing the fact that you had been called as a juror?

A No, I don't believe so.

Q Do you believe, Mrs. Mancini, that you could sit here and listen to the evidence and the instructions of the Court as

to the law and be guided entirely by those, and be absolutely fair and impartial in this case?

A Yes, sir, I think I could.

Q You say you think you could. Could you?

A I could. Yes, I could.

THE COURT: This is Mr. John Mahon,
Assistant County Prosecuting Attorney, who would
like to put a few questions.

EXAMINATION OF PROS. JUROR MANCINI

By Mr. Mahon:

Q Mrs. Mancini, I want to ask you a few questions, not to pry into your private affairs at all, you understand. It is merely an endeavor here to get a juror that can be fair and impartial in this case. You understand that?

A Yes, sir.

Q Are you related at all to Paul Mancini, the lawyer?

A No, I don't believe so. I don't know the name.

Q You have told Judge Blythin that you have read about this case.

A Yes, sir, I have.

Q And you have heard it mentioned on the radio?

A Yes, sir.

Q And you have seen it on the TV, is that right?

A Yes, sir.

Q When did you first read about it?

A The first morning that it was in the paper, the morning Plain Dealer.

Q And following that, did you continuously read about it day to day?

A No. I may possibly have read a few things, but I didn't follow the whole thing thoroughly. I didn't read every word that was in the paper about it.

Q Well, did you read most of the things that were in the newspaper?

A Yes, sir, I believe I read most of it.

Q And there was a considerable amount of news in the newspaper concerning this matter?

A I believe about three-quarters of it was about the case.

Q Did I understand you correctly that from -- withdraw that for the moment.

Now, after reading about the case, did you discuss it with anyone?

A Yes, sir, I did.

Q With more than one person?

A Yes, sir.

Q About how many people did you discuss this matter with?

A I don't think I could come down to a figure. I'd have to say it was about the general topic of conversation most everywhere.

Q Can you tell us about how many you talked to about it?

A Well, I believe about most everybody I talked to.

Q How many is that?

A I couldn't say how many that is.

Q Is it ten or less?

A My family, my friends, anyone that --

Q To get it into a figure, would it be five people or more than five?

A I would say more than five people.

Q Would it be ten or more than ten?

A I'd say more than ten.

Q What would you put it as a top figure?

A I don't believe I could put it in a top figure.

Q Would it run into hundreds?

A You mean up until this point?

Q That's right.

A From the time it happened until now?

Q That's right. That you had some discussion about this case?

A Well, people I have talked to on the telephone, my friends, my relatives, different ones that would ask me about it, and I would also discuss it. I really couldn't put it in a figure. I couldn't say how many people I have talked to since that time.

Q Could you give us an approximate number?

A Oh, possibly twenty-five or fifty people, I would say.

Q And that continued down until what time? Until you were summoned in this case?

A No. I believe it rather slacked away a couple of months ago. Just occasionally that it would be brought up in the conversation.

Q Did I understand you correctly in answer to a question by Judge Blythin that you had formed an opinion concerning the guilt or innocence of Sam Sheppard?

A I have had two different opinions, yes, at various times.

Q And when did you form your first opinion?

A I would say a few days after I first read it in the newspaper.

Q And then did you change your opinion after that?

A Yes, I did.

Q And can you tell us about when it was that you formed a different opinion?

A Well, possibly a month after it happened.

Q And after that did you change at all?

A Yes, I did.

Q And did you change to a different opinion then?

A No. I changed to the point where I had no opinion.

Q And when was it that you changed that you had no opinion?

A Well, I can't give a definite date.

Q I am not asking -- just approximately what time was it?

A Possibly about September.

Q In September?

A Yes.

Q Last month?

A Yes.

154 Q Well, it is two months now. This is the 1st of November.

A Yes. Possibly two months ago. One thing other than the evidence I have read in the newspapers -- you see the shows on television, and the movies, also, where crimes seem to point to one man and everybody thinks he is the guilty party, and then it turns out to be someone that wasn't thought of in the first place, so I feel you shouldn't really judge anyone until you know more about it yourself.

Q Now, at the time that you received your summons, when was that? Last Thursday?

A Thursday evening about 7:00 o'clock.

Q At that time, just before you received your summons, did you have any fixed opinion as to the guilt or innocence of Sam Sheppard?

A No, I didn't.

Q Now, after you received your summons, did you talk to anyone about this case?

A Just my mother. Just merely about being called down here. I was nervous.

Q Have you read articles in the newspaper since you received

your summons? ✓

A Yes, I have.

Q Have you heard comments on the radio since that time?

A Yes, I have. ✓

Q And have you watched television and seen anything on that since then?

A Yes, I have. ✓

Q Did any of that cause you to form any opinion since you received your summons?

A No, I haven't. I have tried to pass it over, more or less.

Q Well, now, you are the only one can judge this and answer this question: Right at the present moment, right now, have you any fixed opinion as to the guilt or innocence of Sam Sheppard? |

A No, I do not.

Q You have none whatever?

A No, sir.

Q And do you feel that you could enter into this case as a juror at this time and obtain all of your information right here in this courtroom from witnesses that will take that witness stand?

A Yes, sir.

Q And be guided solely and entirely from that testimony?

A Yes, sir.

Q Disregard everything that you have read or heard about this

case outside of that?

A Yes, sir.

Q You feel that you could do that?

A Yes, sir.

Q The Court will tell you that it is the function of a jury to determine the facts in this case, and no one can interfere with the jury in determining what the facts are. The jury finds the facts from the evidence, that is, from the testimony of the witnesses on the witness stand plus any physical exhibits that might be admitted into the evidence. Do you understand that?

A Yes, sir.

Q As I said, no one can interfere with the jury in determining those facts, the judge or the lawyers, or anyone. You understand that fully?

A Yes, sir.

Q On the other hand, the rules of law that apply in a case of this kind are laid down by the Judge. He tells the jury what the law is that governs a case of this kind, and the jury is bound to follow those instructions. Do you feel that you can do that?

A Yes, sir.

Q I don't want to confuse you now. I don't mean that the Judge will attempt to interfere with the jury in finding the facts, but the Judge will instruct the jury on the law,

and the jury is bound to follow those instructions, and when I say the law, I mean such things as the Judge will tell the jury what is necessary to be proven, what elements are necessary to be proven before you would be justified in finding a person guilty; he will define what first degree murder is. You understand that?

A Yes.

Q And define other phases of the law in connection with a case of first degree murder, for instance, what reasonable doubt is, he will define that to you; define what presumption of innocence is to the jury. You will follow all those instructions, will you?

A Yes, sir.

Q Now, one of the rules of law that the Judge will instruct you on is that where one is charged with the commission of a crime, where they enter a plea of not guilty to that charge -- and that has happened in this case -- that then the law presumes that the person charged is innocent until the State produces evidence to prove him guilty beyond a reasonable doubt. Now, if Judge Blythin tells you that is the law, will you follow that?

A Yes, sir.

Q And do you feel at this time, right at this moment -- can you presume that this defendant, Sam Sheppard, is innocent?

A You say presume he is innocent?

Q Yes.

A Yes, sir.

Q You can do that?

A Yes, sir.

Q And you will require that the State of Ohio produce sufficient evidence to convince you of his guilt beyond a reasonable doubt before you will vote a guilty verdict?

A Yes, sir.

Q Is that right?

A Yes, sir.

Q Now, there will be many witnesses who will testify here, and there will be professional people, which are doctors, there will be technicians that will testify, there will be policemen who will testify, and there will be lay citizens, common, ordinary citizens who haven't got a profession, and then just the ordinary citizen will testify. Now, in addition to the jury determining the facts in this case, the jury has the obligation of determining the credibility and the weight that they will give to the testimony of any witness who testifies, and every witness who testifies. Do you understand that?

A Yes.

Q In other words, the jury has the job of determining which witness is telling the truth, and what is the truth, regardless of whether they are professional people, public officials,

policemen or the common, ordinary citizen. Do you understand that?

A Yes.

Q And will you weigh the testimony of all of the witnesses regardless of his station in life or their occupations? Will you weigh the testimony of each and every one of them on the same scale and give credit to those witnesses that you think are entitled to credit and give no credit to those witnesses who you feel are not entitled to credit?

A In other words, show no discrimination, is that right?

Q That is one thing, of course, show no discrimination.

A Well, I mean in the testimony of a doctor as opposed to a bricklayer, is that right?

Q That's right.

A Show no discrimination?

Q That's right. Show no discrimination because of those differences in positions.

A Yes, sir.

Q You will weigh the testimony of each of them on the same scale and determine which of them are telling the truth?

A Yes, sir.

Q Is that right?

A Yes, sir.

Q And you will do that, will you?

A Yes, sir.

Q And in determining who is telling the truth, the Court will tell you as a matter of law that you have a right to take into consideration their frankness or lack of frankness in testifying; you have a right to take into consideration as to whether they tell you a reasonable story or an unreasonable story; you have a right to take into consideration the probability or the improbability of the stories that are told to you; and you have a right to take into consideration the interest that any witness has in the outcome of this case.

Now, if the Court tells you you might apply all those tests to a witness's testimony, you will follow the Court's instructions, will you not?

A Yes, sir.

Q And in addition to what the Court will -- those rules that the Court will give you, he will also tell you that you have a right to use the same common sense that you use every day of your life in determining whether or not people are telling you the truth. You will follow those dictates, also, will you not?

A Yes, sir.

Q Now, there will be in this case both direct and circumstantial evidence, and the Court will tell you that both types of evidence are competent in this case, and you will follow the Court's instructions as to that feature of this case,

will you not?

A Yes, sir.

Q In a general way, do you understand what direct and circumstantial evidence is?

A Direct evidence, I will say, is the positive evidence that you have at hand, and circumstantial evidence --

Q Well, some lawyers can't explain it either, including myself.

A Well, I would say that direct evidence is the positive evidence that you have the proof at hand. Circumstantial places --

Q Suppose I put it this way: Direct evidence are those things that you can see, that you can hear, some witness hears something or sees something, they come in and tell what they saw or heard -- that is an example of what direct evidence is. And circumstantial evidence is where, from proven facts, you can draw certain conclusions from those proven facts.

I'm sure I don't make myself clear to you, but do you understand in a general way?

A I have a general idea, yes.

Q And the Court will instruct you on that, and you will pay close attention and follow his instructions, will you?

A Yes, sir.

Q You have no prejudices at this time against either type of

evidence; have you?

A No, sir, I don't.

Q You will give all the evidence the consideration that you think it deserves?

A Yes.

Q Whether it is direct or whether it is circumstantial, is that correct?

A Yes, sir.

Q Well, now, in determining this case, of course, as I said before, it should be determined on the facts and the law. You would not be influenced by any bias or passion, prejudice or sympathy for anyone in this case, would you?

A No, sir.

Q You feel that you can sit here as a juror and listen to the stories of the various witnesses and the law that the Court will instruct you on, and decide this case on that and that alone?

A Yes, sir.

Q Now, I might ask you many questions and still might not touch upon something that is in your mind, so let me ask you this broad question: Will you search your own mind and see if you can think of any reason at all why you could not be absolutely fair and just and impartial as a juror in this case?

A No, sir, I can't.

Q You cannot. Thank you.

MR. MAHON: Pass for cause.

THE COURT: That gentleman is
Mr. Garmone of the defense. He would like to
put a few questions to you.

EXAMINATION OF PROS. JUROR MANCINI

By Mr. Garmone:

Q Mrs. Mancini, do you have any brothers or sisters?

A No, I don't. I did have two brothers.

Q And I think you did say to Judge Blythin that the only
persons living at your home, other than your family, is
your mother?

A Yes, sir.

Q And that Mr. Mancini works at the Sills Chevrolet Company
as a mechanic?

A Yes, sir.

Q How long has he been with Sills?

A Well, Mr. Sill has just taken over within the last few
months. It was formerly Anderson Chevrolet, and he has been
there for about six years.

Q Is that outfit that is out there -- that is the outfit that
is out there on Kinsman Road?

A Yes, sir.

Q Of course, we are only interested, Mrs. Mancini, in getting

a jury that will be fair and impartial to both sides in this case, fair and impartial to the State and fair and impartial to Sam Sheppard who sits on the other side of the table.

Now, were you born and raised in Cleveland?

A Yes, sir, I was.

Q What is your mother's name?

A Mrs. Alma Fisher.

Q She is not employed?

A No, she is not, although she is a registered nurse.

Q Now, in some of these discussions that you were frank to tell us about, did you yourself ever express an opinion about Sam's guilt or innocence?

A You mean at any time?

Q At any time.

A Yes, sir, I have.

Q And about to how many people would you expressed that opinion? Many of them?

A I would say many, yes.

Q It was the general topic of discussion?

A Yes, it was.

Q Because, as you said, the newspapers were three-fourths filled with the Sheppard name and the other quarter was used for probably the sports page and the funny page, is that right?

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A That's right. ✓

Q And I suppose in return there were many opinions expressed to you also? ✓

A Yes, sir, there were. ✓

Q Now, did Mr. Mancini ever express an opinion to you?

A No, he hasn't. He didn't follow it too much. He doesn't express many opinions about anything.

Q All the opinions that are expressed around the house are by you?

A I guess I am the boss.

Q Well, that is a good way to manage the household. Was there any opinions expressed by your mother, Mrs. Fisher, to you, how she felt about it? ✓

A She may have. I imagine she has. ✓

Q Without telling me what the opinions were that you expressed or had expressed to you, did you come into this courtroom this afternoon with any opinion?

A No, sir, I haven't. —

Q Of your own?

A No, sir.

Q Did you come into the courtroom with any of the opinions that may have been expressed by some other people to you?

A No, sir. ✓

Q You feel that you have an open mind now?

A Yes, I do.

Q And if you are chosen, that you will accept only those facts that you hear in this courtroom, is that correct?

A Yes, sir.

Q Now, you did say that you were not employed, but around election time -- and tomorrow is Election Day -- that you have a part-time job?

A Yes, sir, that's right.

Q You are out of the 30th Ward, is that right?

A Yes, sir.

Q Is Mr. Lipowski your councilman?

A No, he is not.

Q Who is --

A Oh, yes, yes, sir. I was thinking about the committeeman.

Q Do you know him?

A I met him once.

Q You were thinking about the committeeman?

A Committee leader, yes.

Q Who was he?

A Frank Fagin.

Q He is the Ward leader?

A Ward leader.

Q Was it through his efforts or is it through his efforts that you get this part-time job that you have?

A Yes, it was.

Q Now, Mr. Fagin is the Ward leader for the Democratic Party,

is that right?

A Yes, sir.

Q Now, would the fact that some of the opposition are members of the Democratic Party, would that have any influence as to what your decision should be in this case?

A No, sir, it wouldn't, because I don't vote strictly one way.

Q You do exercise the right of being a non-partisan?

A That is the truth.

Q Is that right?

A That's right. I vote for who I think is right for the position.

Q Would the fact that Dr. Gerber, who is the Coroner of our county here and has been a candidate for a good many years on the Democratic ticket -- would that have any influence on you?

A No, sir, it wouldn't.

Q You wouldn't try to please Mr. Fagin in any way with your decision in this case, would you?

A No, sir.

Q You wouldn't consider the fact that he is a member of the same party that the Prosecutor's office is represented by -- would that cause some influence in how you should decide the facts that you hear in this courtroom?

A No, sir.

Q Sam Sheppard was indicted by the Grand Jury. He is charged

with murder in the first degree. That calls for the taking of a life, his life in this case, so you appreciate, then, the responsibility that may come your way as a great one, is that right?

A Yes, sir.

Q And if the Court says to you, Mrs. Mancini, that the facts that you should only interest yourself in are those facts that you gather in this courtroom, you will subscribe to that admonition and law?

A Yes, sir.

Q When we talk about the facts, you, as a juror, should you before the end of this trial take your place in this jury box with these other ladies and gentlemen, you, as a juror, will be the sole judge of those facts, that is the law that Judge Blythin will tell you, and will you follow that principle of law?

A Yes, sir.

Q He, Judge Blythin, can't trespass on that authority when it comes to judging the facts; I can't, as one of the lawyers for Mr. Sheppard, nor can any of these three gentleman who represent the State. That is a province all of your own. And will you accept it and protect it?

A Yes, sir.

Q If, after you have heard all the facts in this case, should you become a member of this jury, and you come to that con-

clusion or you arrive at an abiding conviction that the State has failed to convince you beyond a reasonable doubt of Sam Sheppard's guilt, would you hesitate in joining with your fellow jurors in returning a verdict of not guilty?

Do I make myself clear?

A No. Will you repeat that, please?

Q If the State fails to convince you beyond a reasonable doubt -- that is the burden of proof that is required, and that is incumbent on the State to satisfy you beyond a reasonable doubt -- should they fail to convince you beyond a reasonable doubt of this young man's guilt, would you hesitate to return a verdict of not guilty if the Court told you that that was your obligation as a juror?

A I would be willing to return a verdict of not guilty, yes.

Q You would be willing to?

A Yes.

Q Now, when we talk about facts, if you, as a juror, have been given all the facts in this case, and then it becomes the Court's duty and the Court's responsibility to give you the law applicable to the facts, and after a discussion with your fellow jurors that inquire into the entire over-all factual picture woven into the legal applications that his Honor, Judge Blythin gives you -- after all this discussion, and you are still of the opinion, Mrs. Mancini, you, as an individual, are still of the opinion that the State of Ohio

has failed to convince you beyond a reasonable doubt of this young man's guilt, would you still be willing to return a verdict of not guilty?

A No, sir.

157 Q You mean that you would stick by --

A The way I felt.

Q The way you felt?

A Yes.

Q And that if you felt that the State had not proven his guilt beyond a reasonable doubt, you would stick to that theory, is that right?

A Yes, sir.

Q You would stick to that theory regardless of whether you are in the majority or whether you are in the minority, is that right?

A Yes, sir.

Q Thank you. Now, when we talk about issues, Mr. Mahon delved into that subject, and he covered it somewhat thoroughly, but I'd like to just go over some of the steps, with your patience. We get down to the indictment that was returned in this case. This indictment was returned by the Grand Jury of our county. Now, if the Court says to you, Mrs. Mancini, that the indictment raises no presumption of guilt as to Sam Sheppard, will you follow that theory of law? Well, let me put the question this way: Because there has

been an indictment returned, do you think that there is any presumption of guilt as far as Sam Sheppard is concerned now?

A No, sir.

Q The indictment -- you will treat it only as an instrument that apprises this young man what he stands charged with?

A May I ask something?

Q Sure.

A You mean, in other words, because there is an indictment against him, that I should presume he is guilty?

Q Would you presume he was guilty just because there is an indictment against him?

A No, sir; no, sir.

Q You then subscribe to the theory of law that as Sam Sheppard sits there behind Mr. Petersilge and in front of Mr. Corrigan, Jr., that he is presumed to be innocent, is that right?

A Yes.

Q When you look at him, you are satisfied under the law that he wears the robe of presumption of innocence, is that right?

A Yes, sir.

Q Now, the Court will say to you, Mrs. Mancini, that throughout this entire trial, the presumption of innocence remains with him, and with those instructions given to you by his Honor, Judge Blythin, will you follow them as such?

A Yes, sir.

Q The indictment relates the charge of first degree murder. So that we may have a better understanding -- maybe I should have explained this to you before I ask you the question: Before an indictment is returned, there is presented for the Grand Jury's consideration witnesses, and they tell their story. If we could picture these ladies and gentlemen as a Grand Jury, those witnesses go in and tell their story. They are examined by a member of the Prosecutor's office. They tell what they know about, in this instance, the case of the State of Ohio versus Sam Sheppard, and after the Grand Jury hears their stories, hears their testimony, they return an indictment, and that is what was done in this case. However, those witnesses are only persons who are given the opportunity of telling their side of the story by the prosecution. Do you follow me?

A Yes.

Q Sam Sheppard was never afforded the privilege to go in and tell his side, nor was he ever given the opportunity of taking any of his witnesses before the Grand Jury to tell what they knew about this case, so it became a one-sided hearing, and it is because of the fact that it is a one-sided hearing that under no circumstances, and at no time, are you ever to consider this instrument that you will have with you in your jury room when you start to deliberate, as evidence,

and the Court will tell you that it never becomes evidence, and you do subscribe to that rule of law as a result of what I told you of how the indictment is brought about, is that right?

A Yes.

Q Now, in this indictment, Mrs. Mancini, Sam is charged with, on the 4th day of July, that he unlawfully, one; purposely, two; of deliberate and premeditated malice -- there are four distinct elements that are contained in that indictment, each one standing on their individual structure. The Court will say to you, and he will say to all these other persons, that the State of Ohio must prove each and every one of those things that I have just read off to you by evidence that convinces you beyond a reasonable doubt. Will you follow that theory of law?

A Yes.

Q And should the State fail in their endeavor to convince you by proof beyond a reasonable doubt of each and every one of those things that I have read off, would you under those circumstances hesitate in returning a verdict of not guilty?

A No, sir.

Q Along those lines, the Court will say that if the State should prove to you number one, number two, number three, and then fail on number four, he says to you, Mrs. Mancini, that under that descriptive picture that you gather by the

evidence that will be given to you that it would be your duty as a juror to vote a verdict of not guilty, you would follow those instructions, would you not? If three out of the four were proven, and the fourth was not proven, and the Court tells you that it is the law that they must prove all four, and if they don't prove all four, then you would have to vote not guilty, would you follow that theory?

A Yes, sir.

Q No doubt in your mind about it?

A No. I was just trying to follow that through.

Q But you understand it now?

A Yes.

Q And there is no doubt in your mind but what you would subscribe to that rule of law, is that right?

A That's right.

Q When we talk about burden of proof, we talk about the degree of evidence that is necessary to convince you beyond a reasonable doubt. Judge Blythin will read you the statutory definition of reasonable doubt. Will you follow the definition that he gives you?

A Yes, sir.

Q And you do understand that the burden never switches from this side of the table to the other side, that it is always their responsibility to prove to you by that degree of evidence? You understand that theory in law?

A Yes.

Q The State -- it is incumbent upon them at all times, and the Judge will tell you that, and you will follow that, is that correct?

A Yes.

Q Now, you made some mention, Mrs. Mancini, about a doctor.

A No, I don't believe I did.

Q Oh, I think it was maybe the previous one. I'm sorry.

Now, we will have police officers testify in this case. Do you know anybody that is connected with the Police Department, any member of your family, or relative of Mr. Mancini or relatives of your mother?

A No, sir, not that I can think of.

Q Do you know James MacArthur? He is the head of the Detective Bureau?

A No, sir, I don't.

Q If he was called upon to testify in this case as an inspector of the Cleveland Police Department in charge of the Detective Bureau, would you, because of that fact, give his testimony greater consideration than you would a layman?

A No, sir.

Q You'd measure the layman's testimony with the same yardstick that you would measure his?

A Yes, sir.

Q And you wouldn't permit yourself to be impressed with his

title as Inspector, would you?

A No, sir.

Q Or that he is connected with the Police Department of the City of Cleveland?

A No.

Q If you will be called upon to consider the testimony of doctors who are connected with the Coroner's office -- Dr. Gerber, do you know him?

A No, sir, I don't.

Q Dr. Adelson?

A No, sir.

Q Sunshine or Dr. Chamberlain?

A No, sir.

Q And there is a young lady there -- I think she lives somewhere out on the east end, her name is Mary Cowan -- do you know her or have you ever had any contact with her?

A No, sir, I haven't.

Q Now, would the fact that they were doctors and associated with the Coroner's office give you the impression that you'd have to feel more kindly toward them that you would doctors who would be brought in here to testify in behalf of Sam Sheppard?

A No, sir.

Q You would use the same fair play yardstick, is that right?

A Yes, sir.

Q And their title and their official office won't impress you?

A No, sir.

Q There was some discussion between Mr. Mahon and yourself about circumstantial evidence, and I think that your interpretation of it was about as clear as any we had around here in the past eleven days, because it came from you who used ordinary language, and sometimes the Judge and we lawyers try to use the language that is expressed in the books, and we don't make ourselves clear.

However, if the Court says to you, Mrs. Mancini, that the rule in the State of Ohio is when reliance for conviction is placed on circumstantial evidence, the facts and the circumstances on which the theory of guilt is placed must be shown beyond a reasonable doubt, and when taken together, when all these facts and circumstances are taken together, the facts and circumstances that make up these links that create in the end result the chain, when they are all taken together, they must be so convincing as to be inconsistent with the claim of innocence and admit to no other answer than the guilt of the accused -- now, the Court will tell you that that is the rule that you are to follow as to distinguishing direct evidence against circumstantial evidence. Will you follow that rule?

A Yes, sir.

Q If he charges you as a matter of law on the proposition of

circumstantial evidence as I have read it to you, and somewhere in this over-all picture one of the links fails to connect up with the balance of the chain, and he says to you in his legal way that should that occur, that under those circumstances, it will be your obligation to return a verdict of not guilty, would you hesitate to follow that theory? Do you understand the question?

A Yes, I do, but I don't know what my answer would be. You are presuming that the case is over and one link didn't meet with the others?

Q After all the facts had been heard and it becomes now your responsibility with these other ladies and gentlemen to go up and deliberate, and somewhere along this chain, these links that make the chain of circumstances there is a breaking point, and the Court says to you that there being no completion of that chain of circumstances that correlate with the definition that he gives you on circumstantial evidence, would you under that descriptive picture hesitate to vote for a verdict of not guilty?

A No, sir.

Q We understand one another on that proposition, do we not?

A I think so.

Q Just one or two more questions, Mrs. Mancini. I believe you said that your mother was a nurse, is that right?

A Yes, sir.

Q Has there ever been any discussion between your mother and yourself about doctors of medicine, doctors of osteopathy?

A No, sir.

Q Do you have any ideas or pre-conceived ideas of who are the better of the two as far as their respective fields are concerned?

A No, sir. I imagine they are equal in both their fields.

Q And you won't, because a man is a doctor of medicine, give his testimony any greater consideration than you would a doctor of osteopathy if he were testifying and could show you that they were both competent on the same subject matter?

A No.

Q If a doctor of medicine testifies on a subject matter as against a doctor of osteopathy, you wouldn't, because he was a doctor of medicine, give his testimony any greater weight than you would a doctor of osteopathy, would you?

A No, sir.

Q You would measure them by the same fair play yardstick that you have indicated throughout the examination, is that right?

159 A Yes, sir.

Q Now, Mrs. Mancini, as you have been told, if chosen, you will become an alternate juror in this case with the possibility that some time during the course of the trial you may be moved into the jury box to the point where you

shall have the right to vote.

A Yes, sir.

Q Because you are now an alternate, you wouldn't be apt to give less attention to the facts that will be presented?

A No, sir.

Q You would pay strict attention to and listen, then, to it with the same attentiveness that you would if you were one of the original twelve?

A Yes, sir.

Q Now, I have asked you a good deal of questions, and Judge Blythin has, and Mr. Mahon has. Now, I ask you to search your conscience, because you are about to accept a responsibility that has never been yours before and probably will never come your way again in your lifetime -- if you are chosen as a juror in this case, and you will be called upon to determine the guilt or innocence of Dr. Sam Sheppard who is charged with murder in the first degree, you, if you are chosen as a juror in this case, will take with you into this jury box the authority under the law to destroy the life of a fellow citizen; do you think that you can accept that responsibility?

A I believe I could.

Q Are you certain that you can?

A Yes.

Q And with that in mind, can you enter into this contest and

leave all personal feelings aside, any ideas that you may have had prior to the time that you were called as a juror, leave aside all the opinions that have been expressed to you, and deal with that young man fairly and impartially?

A Yes, sir.

Q And give him the same kind of a trial that you would want yourself to have or some member of your family to have if, by the grace of God, they sat there and he sat in this jury box?

A Yes, sir.

MR. GARMONE: Thank you. That is all, your Honor, at this time.

THE COURT: The State has a challenge.

MR. MAHON: The State is satisfied with this juror, if your Honor please.

MR. CORRIGAN: We pass the juror.

THE COURT: You pass for cause, and you pass peremptorily?

MR. CORRIGAN: Pass peremptorily.

THE COURT: Do I understand that you have no peremptory?

MR. CORRIGAN: We have no peremptory, no.

THE COURT: You have no peremptory?

MR. CORRIGAN: No peremptory.

THE COURT: Mr. Hansen, will you be kind enough to come up here, and will you step up here, please, Mrs. Mancini?

(Thereupon Mrs. Mancini and Mr. Hansen were sworn as alternate jurors.)

THE COURT: Ladies and gentlemen, we will have a few minutes recess at this point, and will you please observe the caution which the Court has expressed to you, do not discuss this case, not even among yourselves, or with anyone at all. We will have a few minutes recess.

(Thereupon a recess was taken.)

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1 (AFTER RECESS:)

(Thereupon the following proceedings were had between Court and counsel in the absence of the jury:)

THE COURT: All right, gentlemen.

MR. MAHON: If your Honor please, at this time the State would like to make an application to the Court that Juror No. 6, Mr. Manning, be discharged from this jury.

THE COURT: Be what?

MR. MAHON: Be discharged from this jury, be disqualified as a juror.

We are making that application on the grounds that when he was interrogated on the witness stand as to his qualifications as a juror in this case, that he did not tell the whole truth. When inquiry was made whether or not he had ever been a juror or a witness in a case, he said that he had not been, when, as a matter of fact, he had been a witness in a case which involved himself as a defendant, and that was in November of 1943. He was arrested on November 5th, 1943, in Cleveland. He was charged with violating General Code Section 13031-13.

THE COURT: Will you give me that number again, please?

MR. MAHON:

General Code Section

13031-13, in that he unlawfully occupied an automobile for the purposes of lewdness. He was convicted of that charge and was sentenced to six months in the workhouse, and the sentence was suspended and he was placed on two years' probation.

The facts in that case, if your Honor please -- and if your Honor wants some proof on this, we have it available -- that when this case was called in to Court on the 5th of November -- I am not sure if it was the 5th. What is the date of the trial?

MR. DANACEAU:

The 18th.

MR. MAHON:

(Continuing) The 18th

of November, before Judge Kovachy, that is, Judge Julius Kovachy, who is now on the Court of Appeals, in the Municipal Court, that the witnesses were sworn, that he, the defendant, also had taken the oath at that time.

There was then a suggestion, because of the nature of the case, that the hearing be had in the Judge's chambers, and evidence was had in the Judge's chambers, and the Judge found Manning guilty of the charge then pending against him.

Now, this juror, when he was upon this witness stand, was asked specifically whether or not he had

ever been a juror in another case, also whether or not he had ever been a witness in another case, and to both questions he said no. He was also asked whether or not there was anything that might in any way influence his judgment in this particular case, and he said no.

Before this jury was finally accepted, and when all 12 of the jurors were seated in their places in this jury box, I asked the jury then whether or not -- that they had sat here, some of them, for nearly two weeks and heard these questions repeated and repeated over and over again -- whether there was anything that came to the mind of any one of them, regardless of how slight it might be, that might in any way influence their judgment in this case, and every one of the jurors was asked, one by one, whether or not there was anything, and they all said there was not.

Following that, Mr. Garmone asked them nearly the same question, practically the same question, and called them all by names as they sat in the jury box.

THE COURT: I suppose that could still be his position, though, that it wouldn't affect him.

MR. MAHON: That might be, your Honor. I am just reciting that fact. It might well be that it might have no influence on him as a juror, but certainly there was no reason for not telling the truth on that witness stand when he was interrogated, when he was asked whether or not he had ever been a witness in a case. Now, that's something that he certainly could not have forgotten about, if your Honor please, that experience in his life.

And on that, if your Honor please, we base our application that this juror be disqualified because the crime that he was charged with, if your Honor please, involved moral turpitude, a sex crime. The charge which he was charged on does not reveal the type of crime it was. He could have been charged with a felony under the facts in that case, he could have been charged as a felon.

And so it certainly involved moral turpitude. And on that ground, if your Honor please, we ask for his disqualification as a juror in this case.

MR. CORRIGAN: If the Court please --

THE COURT: Mr. Corrigan, first of all, do you challenge any of the statements as to the facts? If so, I think --

MR. CORRIGAN: I challenge it all.

THE COURT: Not at all?

MR. CORRIGAN: I challenge it all,
every bit of it.

THE COURT: Well, all right. Do I
understand that you are not admitting that those facts
are true?

MR. CORRIGAN: I am not admitting those
facts are true.

THE COURT: All right. Then we
better proceed to evidence on those facts. The
Court wants the record to show what the facts were.
It may be entirely removed from anything that is
claimed by the Prosecutor because someone might come
along here and say those are not the exact facts.

MR. GARMONE: Is there a journal in
the case?

MR. MAHON: Pardon?

MR. GARMONE: Is there a journal to
show the activity of what transpired at the hearing
that you have related to the Court? Is there a record?

MR. MAHON: You mean the details of
the thing?

MR. GARMONE: No. When a matter is
disposed of in any court, it is always journalized, is

that right, the same as a matter in this court is journalized?

THE COURT: There would undoubtedly be a journal as to the final outcome, of course.

MR. MAHON: There is a journal over in Police Court, yes. We can get it over here.

MR. GARMONE: We talk about the journal to determine whether or not this man was ever sworn as a witness.

THE COURT: That is what the Prosecutor says, that he has proof of it, if it is required. That is what the Court would want, if there is any question about it.

MR. CORRIGAN: We challenge everything the Prosecutor says.

THE COURT: Sir?

MR. CORRIGAN: We challenge everything that the Prosecutor says.

THE COURT: All right. Now, Mr. Prosecutor.

MR. MAHON: If your Honor wants that proof, we will have to get it from the Police Court.

THE COURT: All right. Are we willing to stay here long enough this evening to dispose of this matter? The Court is, if everyone else is, but

will not impose his wishes on anybody.

MR. CORRIGAN: I am not.

THE COURT: You are not willing?

MR. CORRIGAN: No.

MR. GARMONE: You can't get it all today.

THE COURT: Counsel for the defense indicate that they do not want to go beyond the regular court hour, and I don't want to start this matter without going through with it and disposing of it.

MR. MAHON: It will probably take more time than that, Judge.

THE COURT: All right. Then we will now adjourn until 9:15 -- will you make it 9:30 on Wednesday morning, at which time we will go into the matter promptly and dispose of it one way or another.

Without any formality at all -- wait a minute. Let's have the jury down.

(Thereupon the following proceedings were had within the hearing of the jury:)

THE COURT: The Court is aware of the fact that not any of you, I take it, have ever served on a jury before, so you may think that this kind of performance is rather queer, but we are seeking, of course, in all of these cases to follow the require-

ments of the law strictly. We cannot proceed any further with this case today, and tomorrow is election day and it is a half holiday under the law of the State. It is hardly worthwhile our coming in the morning because we will not get enough accomplished to justify breaking up the day. So we will, without any formality at all, be adjourned now until 9:30 on Wednesday morning. And will you, ladies and gentlemen, be kind enough again to observe the caution which the Court has heretofore expressed to you? And I will repeat it again for the benefit of the two new jurors who have come, alternate jurors who have come into the picture.

You are not to talk about this case to anyone. You are not to permit anyone to talk about it to you. You are not to remain anywhere where other people are talking about it among themselves. You are not to talk about it among yourselves, in your jury room or elsewhere.

It is your duty as an individual juror and responsible citizens to keep your own counsel, to listen to the evidence that comes from this witness stand and the instructions of the Court as to the law and wait until all those are complete before you form any opinion or judgment whatever as to the outcome

of this case, which opinions and judgments are to be expressed only in your jury room after the case has been finally submitted to you for deliberation and decision.

I would suggest to you, too, and this is particularly directed to those who have come in today, that you do not during the pendency of the trial listen to comments about it over the radio or otherwise and do not read newspapers. Have somebody preserve those for you, and you can read them -- that is, as far as this case is concerned -- have the reports of this case taken out and have them preserved for you, and you may read them to your heart's content after this case is disposed of. I say that because I think you will feel better and you will be better.

MR. CORRIGAN: May I have the Court state to the jury that they will know more about this case than what will appear in the newspapers?

THE COURT: Yes, indeed. You understand, ladies and gentlemen, the entire community has had through news media of this kind, that kind and the other, and discussion by people who really know nothing whatever about the case, probably, and there have been all kinds of things floating around,

there is no dispute about that anywhere, but you will get here the only facts that you are to consider in the determination of this case. They will be presented by the State, and then the defense will have its opportunity to present its views, if there are views to be then presented, and let us be sure that we are relying on what we hear here from official authoritative sources and rely on those entirely in our consideration and decision of this case. Let's forget all about what has been floating in the community. We are now to the serious business of ourselves determining what the facts really are, and we will get that from this witness stand and on the basis of the rules of law that the Court will give you.

Without any formality -- does that cover what you wanted?

MR. GARMONE: Yes.

THE COURT: Does that cover what you wanted? -

MR. CORRIGAN: Yes, that's what I wanted covered, your Honor. Thank you.

THE COURT: Without any formality at all, we will now be adjourned until 9:30 Wednesday morning.

(Thereupon at 4:00 o'clock p.m. an adjournment was taken to 9:30 o'clock a.m., Wednesday, November 3, 1954, at which time the following proceedings were had:)

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WEDNESDAY MORNING, NOVEMBER 3, 1954, 9:30 A.M.

MR. DANACEAU: The juror asked me how he could address the Court.

THE COURT: Pardon?

MR. DANACEAU: The juror asked me how he could address the Court.

THE COURT: All right. We have a very democratic court here, sir.

Is it Mr. Manning?

JUROR MANNING: That's right.

THE COURT: Would you just come up here, Mr. Manning, please?

(Thereupon Juror James R. Manning resumed the stand and testified further, as follows):

THE COURT: Let the record show that this is Juror No. 6. Mr. Manning has made a request to address the Court. All right.

JUROR MANNING: Your Honor, it has come to my attention that some unfortunate event in my past has come to light, and it is causing disturbances in the neighborhood, my family and my friends.

This is such -- well, this has unnerved me so much that I feel that I am physically and mentally unfit to serve as a juror in this case. When I was

questioned on the stand, I thought I answered truthfully every question that was asked me, and what was in my past I thought had been investigated, that it was a matter of public record, that it had been so far removed from the present that it was, well, considered to have no bearing on the case, and that is my honest belief.

THE COURT: Let me ask you this question, if I may: Have you discussed or talked, directly or indirectly, with the Court or with any member of counsel on either side of this case since this happened?

JUROR MANNING: No, sir, I haven't.

THE COURT: Anyone?

JUROR MANNING: No. My wife told me about it Friday night. I have talked to my Pastor, but not about the case at all.

THE COURT: All right. I want you to know, and I want the record to show, that the paper, one or two papers, perhaps more, last Friday carried a story that the Court had discussed this matter with your Pastor and that your Pastor had made certain requests of the Court. Those reports were absolutely untrue, they did not happen at all. The Court had no discussion with your Pastor about the

matter at that time.

Your Pastor came in, and the Court immediately informed him that he could not discuss this matter at all for the simple reason that there was nothing at that time before the Court, and your Pastor very graciously, I know, understood the situation and immediately bid the Court goodday, and that was the end of that. There was no discussion. All right.

Now, I would like to ask you one or two questions, Mr. Manning.

JUROR MANNING: Yes, sir.

THE COURT: First, did you testify in the 1943 incident?

MR. CORRIGAN: Object.

THE COURT: You may answer. Overruled. Exception.

JUROR MANNING: I believe I did, sir.
I don't know. Yes, I did.

THE COURT: I see. So that actually, when you answered the question "No" to the Court and to counsel, that answer was not actually true?

JUROR MANNING: As a layman, I didn't know what it meant. I see now, but it was not --

THE COURT: It was not true?

JUROR MANNING: It was not true.

THE COURT: Now, Mr. Mahon, Mr. Danaceau, have you any questions?

MR. MAHON: We have none.

THE COURT: Mr. Corrigan?

EXAMINATION OF JUROR JAMES R. MANNING

BY MR. CORRIGAN:

Q Mr. Manning, you were chosen as a juror in this case and you swore that you would well and truly try the case of the State of Ohio versus Samuel H. Sheppard, didn't you?

A That is right, sir.

Q When you took your place in this jury box, you had stated that you had no bias or prejudice of any kind and that you would base your decision entirely upon what you heard in court and the charge that the Court gave you?

A That is correct.

Q Now, if you remain as a juror in this case, is there any reason why you should change and not decide it according to the evidence in this case?

A The only answer I could make to that, Mr. Corrigan, is that in my present emotional and mental frame of mind I don't believe I could sit unbiasedly in that witness box.

Q How did you get into the present emotional frame of mind, what caused that?

A Through the bringing up of the past which I thought had been

checked and cleared.

Q Well, how was it brought to your attention?

A My wife told me that what had happened in 1943 was on the radio. I never heard it on the radio myself or read it in the paper.

Q But it was being broadcast?

A That's right.

Q And your wife told you about it?

A She did.

Q Was there any comment about it among the other members of the jury?

A No, sir, there was not at any time.

Q At any time?

A No, sir.

Q Now, whatever happened happened 11 years ago, didn't it?

A That is right, sir.

Q When you were 27 years old?

A That's right, sir.

Q You are now 36?

A 38.

Q And since that time you have fathered two boys?

A That is right.

Q You have a family of three boys?

A That is right.

Q And this thing was dragged out of the past?

A That is right.

Q Have you lived an honorable life for the last 11 years?

A I have.

MR. CORRIGAN: I object to the juror
being excused.

THE COURT: Now, gentlemen, the
matter is definitely before us now and probably should
be disposed of at this time.

MR. CORRIGAN: There is just one other
question I want to ask.

THE COURT: Yes.

BY MR. CORRIGAN:

Q Now, let me go back to see if you were -- do you know whether
you were sworn or not when you had the hearing -- was it in
Police Court, in Municipal Court?

A That's right.

Q Do you know whether you were sworn?

A As far as I can understand, I was sworn in by the bailiff, I
believe it was.

Q Well, now, let me see if I can refresh your recollection. Do
you recall that you all went into the Judge's office?

A That's right, sir.

Q What?

A That is right, sir.

Q And you sat around and had a rather informal discussion of the

matter?

A That is right, sir.

Q And that the Judge inquired about the whole thing privately?

A That is right, sir.

Q And that during the course of this inquiry your attorney suggested that you **had** made a mistake and that you had a wife and a two year old baby, and that probably if you got some advice, that the thing would work out all right, and he plead you guilty to assault and battery; do you remember that?

A No, sir, I don't.

Q But there was no formal hearing in Court on this matter?

A It started in Court and was adjourned to the Judge's chambers.

Q What?

A It started in court, in the courtroom and was adjourned to the Judge's chambers.

Q I see.

MR. CORRIGAN: Now, I think that the only thing that we can depend upon here, your Honor, is the Journal Entry in this case, and the Court speaks through its Journal Entry. The recollection of people after 11 years is the same as mine or yours or anybody else's. Apparently, from what he says, all there was was an informal hearing in the Judge's chambers, which happens frequently. I wasn't

there, I just surmise what happened, and it is verified by what he says. There was an informal hearing and a decision was made by the Judge in this matter.

I think it is outrageous, personally, that this man has been subjected to this situation.

JUROR MANNING: May I say anything else, sir?

THE COURT: What did you say?

JUROR MANNING: I was just going to say, may I say something else?

THE COURT: Surely.

JUROR MANNING: Right now, I mean from what is going on, when I came down here for jury duty I thought I was doing what a public spirited citizen of this country would do. That's the only idea I had when I came down. It interfered with my work, my earning a living. I didn't give a second thought to that. I came down here, and if I was chosen, I would serve and serve in the way I spoke, absolutely unbiasedly. And I was -- I tried to run myself from the heart and mind together and be absolutely unbiased and unprejudiced in thinking and talking with other people, even speaking outside this jury. But after what has happened, I would not

be able to sit in that box with the other jurors, be able to listen to the case and be unbiased, unprejudiced or -- unemotional is what I am trying to drive at mostly; that if this keeps up, if I am kept on the jury, I think I will be a sub-headline as long as the trial goes on. I will definitely have a nervous breakdown in a very short time and, in fact, I feel I am just about ready for one right now.

THE COURT: Well, now, gentlemen, the Constitution, of course, provides that a person charged with crime shall not be twice put in jeopardy for the same offense, but the law, after all, is practical and it is for the states to determine the method, machinery for the people charged with crime, in the trial of civil cases as well, the State courts.

Now, the legislature of our state has taken a good deal of pains and gone into a great deal of detail in an effort to make sure that persons shall have a fair and impartial trial before a jury that is qualified and capable of granting that kind of trial. The statute provides it specifically, not only for the impanelling of a jury, but for the impanelling of additional alternate jurors, and has spelled out in

minute detail the function of that juror, if he is ever used; that is, to step in at the outset, to listen as all other jurors do, and to replace any juror who is removed by death or who may be removed by disability or who may have become disqualified.

Now, at the very outset this gentleman made a very horrible mistake, and it is unfortunate for him and unfortunate for everyone else concerned, but the Court, after his statement this morning, has no hesitation whatever in saying that he not only is disabled but that he is also disqualified as a juror. And, for that reason the Court will excuse Mr. Manning and order Mr. Hanson to take Chair No. 6.

MR. CORRIGAN: I want to object on behalf of Sam Sheppard. The --

THE COURT: Just one moment, if you will, Mr. Corrigan. Let me excuse Mr. Manning. Then you can --

MR. CORRIGAN: Well, I would like the juror to remain while I raise my objection.

THE COURT: All right. You go ahead with your statement. If you want him to remain, it is perfectly all right.

MR. CORRIGAN: On Friday morning this matter was called to the attention of the Court, last

Friday morning, and the defense counsel, in your chambers --

(Thereupon a discussion was had between Court and counsel out of the hearing of the jury, after which the following proceedings were had within the hearing of the jury:)

THE COURT: Mr. Corrigan would like to say what he has to say in the absence of the jury.

MR. CORRIGAN: I don't care if this juror remains. You can excuse the rest of the jury.

90 THE COURT: Ladies and gentlemen, you will be excused for a few minutes. And will you please observe the caution which the Court has expressed to you, do not discuss this case?

And Mr. Hanson, when we come back, will you be kind enough to take Seat No. 6? And Mrs. Mancini, is it?

PROSP. JUROR MANCINI: Yes.

THE COURT: Will you be kind enough to take the seat that Mr. Hanson now occupies?

MR. MAHON: Do you want Mr. Manning to remain?

MR. CORRIGAN: No, he can go out, but I want him to return.

THE COURT: You want him to return?

MR. CORRIGAN: I want him to return,
yes.

(Thereupon the jury retired from the courtroom,
at which time the following proceedings were had in
the absence of the jury:)

MR. CORRIGAN: I said on Friday
morning this matter was called to the attention of
the Court -- I will withdraw that.

On Thursday the jury was sworn, and on Friday
morning this matter was called to the attention of
the Court, so that the Court had knowledge of the
fact that Mr. Manning had been arrested in 1941.

MR. GARMONE: '43.

MR. CORRIGAN: '43, and had plead guilty
to assault and battery and had been sentenced to six
months in the workhouse. The fair time --

MR. MAHON: Let me correct that.
We never said that this man plead guilty to assault
and battery. We said he was convicted, not of assault
and battery, either.

MR. CORRIGAN: Well, he was convicted.
The card was there that had been furnished by the
Police Department, and the matter was held in abeyance
by the Court and by counsel for the State while they

impanelled alternate jurors. Was the purpose of that method that was carried on to trick Sam Sheppard into having a jury that he had not chosen?

Now, then, the panel was not exhausted -- before I come to that, then from Friday night on the newspapers of the community have been writing about this matter. When we left the Judge's office on Friday, we said we would have a consultation with the counsel for the State. During Friday, Saturday and Sunday all the radio stations were giving this news to the general public. There is represented in this courtroom all the radio stations of the city of Cleveland, and the television stations, they are back here. If you doubt what I say or question what I say, then I demand you put them on the stand.

There are some 30 or 40 newspapermen here representing the Cleveland papers and out of town papers which are sold in the city of Cleveland. They all wrote about this man. They are sitting back here. If there is any question about that, the Court can inquire of them.

Now, then, I discovered that it was the intention of the prosecution to use a devious method to get this juror off the panel, and I so stated to them in their office, that, "What you are going to do is to

impanel extra jurors, additional jurors, and then make your motion." And that is just what they did.

Now, by this method we are deprived of the jury that we might have. The juror No. 72 of the first panel, Joseph A. Kaczmarek, qualified for this jury. He passed all the challenges for cause, and if the Court had acted and if counsel had acted on Friday, Joseph A. Kaczmarek would be sitting on that jury, not Mr. Hanson that you are placing there. And if he was not sitting on that jury, then juror No. 73, Mr. John C. Smith, qualified and he would have been on the jury. We had only one challenge left. Whether we would have exercised it on Kaczmarek or Smith, we don't know. Whether the State would have exercised it on Kaczmarek or Smith, we don't know. So now with the situation that is presented in this matter this morning, whereby you remove Mr. Manning off this jury and substitute another man, is wrong. We can only prosecute our error on that.

There is only one method in Ohio by which the Court may remove a juror and put another in his place. If before final submission of the case to the jury a juror becomes incapacitated or disqualified, he may be discharged by the Judge, in which case --

or if a juror dies. That is Section 2313-37.

Now, a man is not disqualified, nor can he disqualify himself, by saying that he has been affected by the fact that publicity has been spread about him. But even if he is disqualified -- and the Court already has found that, so there isn't much use in me arguing about it -- then that jury panel is broken, and it was broken deliberately by the Prosecutor, with malice aforethought in this thing. You are not being tried, Judge Blythin, or you are not being tried, Judge Mahon. Sam Sheppard is here on trial for his life and he is entitled to a fair and impartial jury in this case, of his choosing, not of your choosing, Judge Blythin.

Now, if the Court removes that juror, then I say we have to go back to the panel and call these men in that were further qualified. It just astonishes me, your Honor, that this devious method has been adopted in this important case.

THE COURT: What is devious about it,
Mr. Corrigan?

MR. CORRIGAN: The devious method I complain of is that they knew that they were going to challenge Manning.

THE COURT: What if they did?

MR. CORRIGAN: Then they sat there,
and for the purpose --

THE COURT: I know, but the statute
does prescribe the method --

MR. CORRIGAN: No, that isn't prescribed.
That's trickery; that's trickery, your Honor, because
I said in their office in the morning that that was
just what they were going to do, that they were going
to challenge Manning after they had alternate jurors,
and that's just what they have done here.

MR. MAHON: I would like to be
heard on this after Mr. Corrigan gets finished.

THE COURT: I know, but the statute
specifically says that at any time, even during the
trial it could have been done, if it can be done at
all.

MR. CORRIGAN: Yes, during the trial,
but you did not know it before that; you knew it before,
you knew it on Friday morning.

THE COURT: Sure.

MR. CORRIGAN: You knew it on Friday
morning.

THE COURT: Sure, and I would have
been --

MR. CORRIGAN: There were no alternate

jurors here on Friday morning.

THE COURT: And the Court would have disposed of it Friday.

MR. CORRIGAN: Why wasn't it disposed of Friday morning? Why were we suckered into a position --

MR. PARRINO: I object to the remarks of counsel, if the Court please. Nobody is sucking anybody into anything, Mr. Corrigan.

THE COURT: The Court has excused the juror, and it is really perhaps rather cruel to discuss the matter after that is done. It is inconceivable, after what has broken over this man's head in the last few days, that he could function as a juror such as is contemplated by the law of this state. He also has made a false statement under oath in this court, and the Court doesn't want to be brutal in repeating that. That completely disqualifies him. And if the statute under which he is now being replaced doesn't take care of this situation, it is not only worthless but it is wholly meaningless, and it is in perfectly plain English language in the Code of Ohio.

MR. CORRIGAN: Supposing --

MR. MAHON: Judge, can I say a word here?

THE COURT: Yes.

MR. MAHON: I want to get the record straight here, much as I hate to dispute what Mr. Corrigan has said here. This jury was sworn in last Thursday. We started --

THE COURT: Let the Court say one word. That Mr. Corrigan talks about some conference. This is the first that this Court heard of any such conference.

MR. CORRIGAN: You know that we were going to have a conference. We left your office.

THE COURT: Oh, no.

MR. MAHON: Let me set the record straight, if your Honor please. After that jury was sworn, then we started immediately to impanel alternate jurors. And we had exercised a challenge on one of the alternate jurors, and the defense had exercised a challenge on one of the alternate jurors, and we ran out of jurors and you had to call a supplemental venire, and they were here Friday.

MR. CORRIGAN: Yes, but you knew --

MR. MAHON: Just a minute, please.

MR. CORRIGAN: You knew you were going to --

MR. MAHON: Just a minute, please.

On Friday morning we informed the Court of this situation that we discovered. Mr. Garmone, Mr. Corrigan and the other counsel were in your chambers when we discussed the matter there.

THE COURT: That's right.

MR. MAHON: At that time it was agreed that this matter be put over until 1:30, and then at 1:30 we met again and then counsel suggested that the matter was very important and it should go over until Monday morning.

MR. DANACEAU: The defense counsel.

MR. MAHON: Defense counsel suggested that.

MR. PARRINO: Mr. Garmone.

MR. MAHON: Let it go over until Monday morning, and Mr. Corrigan stated voluntarily then that he would come to the Prosecutor's office on Saturday morning, he would think the matter over and come into the Prosecutor's office and discuss the matter with us on Saturday morning. We never heard one word from defense counsel until Monday morning when Mr. Corrigan came into my office.

Mr. Parrino was there, was called there, and Mr. Danaceau was called there. Mr. Corrigan did not tell us we were going to do something devious in this

matter.

What Mr. Corrigan said at that time was this: "We will agree to have that juror, Manning, removed, but we want the rest of the jurors discharged and a mistrial had."

And I said, "We will not do that."

That was all that was said there, and Mr. Corrigan left, and we came up here and started to impanel the alternate jurors. Now, those are the facts. Nothing devious about this at all.

Under the law there are certain provisions for a juror being removed and alternates to take his place. We availed ourselves to the statutes of this state in order to bring this matter before the Court, and now before we can put on our proof to substantiate what our claim is here, that this juror had not told the truth when he was being interrogated, the juror voluntarily this morning makes a statement to the Court and says that because of his mental condition -- and I can well understand it, and the Court can and everyone else in this courtroom can understand it -- that he would not be able to give this case the attention that it should have.

The man is sick, he is sick of mind, and everyone can well understand that, that this matter of 11 years

ago has brought up. No one relished bringing that matter up. I feel as bad about it as anyone else that it had to be, but I am responsible here in representing the State of Ohio in this matter.

This defendant is not the only party of interest in this case. The State of Ohio is an interested party in this case, and as representative of the State, it was my duty and my associates' duty to bring this matter to the attention of the Court under the statutes that provide for such procedure, and that is exactly what we did, and that is the record, if your Honor please.

MR. CORRIGAN: Now --

THE COURT: Let's not prolong it.

MR. CORRIGAN: I just want to prolong this: Do you see that headline, Judge?

THE COURT: Oh, I saw that.

MR. CORRIGAN: Well, how is it that the Cleveland Press has your decision on Monday, "Judge to Oust Sheppard Juror"?

THE COURT: Mr. Corrigan, you have to ask the Cleveland Press. If I live to be 100 years old, I shall never run for editor, and I am not running any newspaper and I am going to let newspapers run their own, and I will do my part as the law requires in

operating this court.

How any such story as that could get headlines or get into the paper at all is beyond this Court, but there it is, and the Court isn't going to pay any attention whatever to it. He saw the headlines, he has not read the article.

Now, let's have Mr. Manning in here, please.

MR. GARMONE: If the Court please, may I say something at this time before you bring the juror in?

THE COURT: Let it be very brief, though, because I do want to dispose of this. We can't help it, in any event.

MR. GARMONE: I am not going to make any argument on the meritorious side of the situation one way or another.

The Court has placed in the record a withdrawal of Juror No. 6, Mr. Manning, and has instructed Juror No. 13, Mr. Hansen, to replace him. I move now, in view of that order that the Court has made, that the remaining 11 jurors be withdrawn and that there be declared a mistrial, and ask for the Court's ruling on that motion.

THE COURT: That request will be overruled. Exception noted.

MR. GARMONE:

Exception.

MR. CORRIGAN:

Well, in support of that motion we want to introduce exhibits -- will you mark these, please?

(Defendant's Exhibits 50 to 62, inclusive, with relation to Defendant's motion, were marked for identification.)

MR. CORRIGAN:

We want to introduce Exhibits 50 to 62.

THE COURT:

They will be received.

(Defendant's Exhibits 50 to 62, inclusive, were received.)

(Thereupon Mr. Manning returned to the courtroom.)

THE COURT:

Mr. Manning, the Court would like to just make clear to you, as a parting word, what the situation is here, and I think I can assure you on behalf of everybody on this side of the table and, undoubtedly, everybody on this side of the table, and certainly for the Court, that we are all horrified by what has happened here and it is terribly unfortunate that actually you made it possible, either by inadvertence or misunderstanding or whatever we may term it, but that is water over the dam now.

The law of this state does provide that if a person does become unable by reason of any illness, disturbance or whatever it may be, unable to function as a juror, or if he becomes disqualified, that the Court may substitute for him an alternate juror and discharge him. I am assuming that you have been a decent citizen and a good husband and father since 1943. I have no option but to assume that, and you look like a person who is a decent member of society.

While we regret these things, they are, after all, matters that we have to deal with with brutal frankness in a court in a case of this kind, and it is only my hope that as you leave here your family, your neighbors, friends and the community as a whole will be as charitable to you as I am sure we -- feel as charitable towards you as we do right here, and I hope that whatever injury has been done to your family or to yourself, that it will pass on, as all things pass on in life, and that the scars will soon be removed and completely forgotten.

I am grateful to you for your statement this morning. I can understand it thoroughly, and I believe you are absolutely honest in stating it, and as a result you are relieved from further service in this case.

MR. CORRIGAN: We except, your Honor,
to relieving this man.

(Thereupon Prospective Juror James R. Manning
was excused.)

MR. CORRIGAN: Now, at this time I
renew my motion for a continuance and renew my
motion for a change of venue.

THE COURT: They will both be
overruled. Exceptions noted.

Are you ready to make opening statements,
gentlemen?

MR. MAHON: Judge, we want to make
a motion, but I think it should be in the presence
of the jury.

THE COURT: Sir?

MR. MAHON: We want to make a motion
at this time, but I think it should be in the
presence of the jury.

THE COURT: All right.

(Thereupon the following proceedings were had
within the presence of the jury:)

MR. CORRIGAN: Now, if the Court please,
due to the situation that has arisen, I want to
exercise the challenge I have left. I, therefore,
without any offense to you, Mr. Manning -- I am

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at this time, but I think it should be in the
presence of the jury.

THE COURT: All right.

(Thereupon the following proceedings were had
within the presence of the jury:)

MR. CORRIGAN: Now, if the Court please,
due to the situation that has arisen, I want to
exercise the challenge I have left. I, therefore,
without any offense to you, Mr. Manning -- I am

protecting my record -- therefore, I challenge Mr. Hansen.

THE COURT: The challenge will be denied. Exception noted.

MR. CORRIGAN: I now want to move that a juror be withdrawn and the case continued.

THE COURT: That will be overruled. Exceptions noted.

MR. MAHON: If the Court please, at this time I would like to move the Court to have this jury conveyed to the home of Dr. Sheppard where this crime is alleged to have occurred so that they might view the premises there, not to take evidence, but to visualize the surroundings there so that they might be better able to understand the evidence as it is produced in court, and I make a motion that they view the premises.

MR. CORRIGAN: I will join in the motion, your Honor, providing that the premises are in the same condition and unchanged since -- the same conditions and unchanged as they were on July 4th. Now, as I understand it, they are not, and I think the Court should make some inquiry on that subject.

I understand that things have been taken out of the house, things have been removed from the house,

articles have been taken out and taken back in, it has been run over by many, many people; that the police have been there and made chalk marks around the house. And Sam Sheppard, of course, has been denied, and all his people have been denied, access to the house, as well as counsel, since July 4, 1954.

So if the premises are in the same condition, yes. If they are not, then I don't join in the motion. I think the Court should inquire as to what has happened to those premises since they have been taken out of the possession of Sam Sheppard.

THE COURT: The Court will not go into that because the jury is not going out, in any event, to gather any evidence. The jury is going out to see exactly the situation as it now is, and only for the purpose of better understanding the testimony as it develops from this witness chair.

If there is an objection, it will be overruled,
and exception noted.

MR. CORRIGAN: Exception.

THE COURT: Ladies and gentlemen of the jury, you are to be conducted to the scene of the happenings that will be testified to in this cause. You are going for one purpose and one only, and that is to view the premises, see the premises, not for the

purpose of forming any ideas of your own at all about anything, but for the sole purpose of enabling you -- and we hope it does -- to better understand the testimony that will be produced from this witness stand. You are not gathering any evidence. The only evidence that is to be considered in this case will be that which is produced here in open court.

So I hope you understand the purpose of the visit is merely to see what you do see there, and for that limited purpose only. There are certain rules to be complied with in such a visit.

You are under the command of an officer of the Court, and for that purpose the Court appoints Mr. Joseph Sweeney, the sheriff of this county, to conduct you upon that visit to the home.

This is the sheriff who will conduct you. You are not to have any conversation of any kind with anyone about anything on this visit unless you have that communication through the sheriff. He is the only person to whom you are to be permitted to speak at all upon the premises and about this particular case or any matter involved in it, and if counsel for the State or counsel for the Defense or anyone wishes to -- there won't be anyone else, in any event -- wishes to communicate with you at all, that person, too, must do

it through the sheriff. He is your host and he is the only person who is to convey any information to you or to whom you are to convey any information or any inquiry of any kind whatever.

The bailiff of this court, Edgar Francis, will go with you but you are not in his charge; you are in charge of the sheriff. He will only go to take care of accommodating any of you in any convenience that you may need upon the jury there and back.

(Thereupon a discussion was had between Court and counsel out of the hearing of the jury, after which the following proceedings were had within the hearing of the jury:)

THE COURT: Now, it will probably take an hour to get that bus here.

MR. MAHON: Judge, I want it made clear that in addition to viewing the house, we want a view of the grounds there, also.

THE COURT: Oh, yes, of course, a view of the premises, whatever is shown you by the sheriff.

Now, the timing: I am afraid that we did not order, of course, a bus for the simple reason that we didn't know just exactly what was going to develop here. I would like to have this view made today and

opening statements at least made today.

(Thereupon a discussion was had between Court and counsel out of the hearing of the jury, after which the following proceedings were had within the hearing of the jury:)

THE COURT: The Court has consulted his lawyers, ladies and gentlemen, and we are getting somewhere now. It may take us as long as an hour to get a Cleveland Transit bus in front of the building here to take you over to the premises. That would make it 11:30, almost the noon hour. So we have agreed that we will now adjourn until one o'clock this afternoon, and we shall have the bus here at one o'clock, and when you return the sheriff will meet you right here in your jury room and convey you and take you to the premises.

It will take you some time to get there and some little time there and some time to get back here. We do not believe that we can move any further in this cause today. So when you do return, you will be dismissed, and we will be adjourned for the day. And will you please be careful at all times and overnight to observe the caution which the Court has heretofore expressed to you, do not discuss this case at all, even among yourselves, either in your jury room

or elsewhere.

MR. CORRIGAN: May I say one thing,
your Honor?

THE COURT: Yes.

MR. CORRIGAN: I make the demand, your
Honor -- you didn't mention it -- that the defendant,
Sam Sheppard, accompany the jury to the scene; that
at the house the sheriff be instructed to comply with
the requests of the attorneys for Sam Sheppard and
Sam Sheppard to point out to the jury such things
as he desires to be pointed out.

THE COURT: That request will be
granted. You understand, Mr. Sheriff, that Sam Sheppard
is entitled to visit the premises at the time of the
visit by the jury and he is entitled to have those
things shown that he wants shown through you to the
members of the jury.

MR. MAHON: And the Prosecutor has
the same right.

THE COURT: And the Prosecutor has
the same right, of course.

MR. CORRIGAN: And may I have this
understood, your Honor, that at all times while any-
thing is being shown at that house or on those grounds,
or while anything is stated to the jury at the request

of counsel for the defendant or counsel for the State, that Sam Sheppard shall be in a position where he can overhear what is said and what is requested and be in a position to see what is being shown to the rest of the jury? I ask the sheriff to be instructed in that regard.

THE COURT: There will be no dispute about that. Yes, that will be granted, certainly.

All right. Now we will be adjourned until one o'clock sharp this afternoon, ladies and gentlemen. And will you please then be in your jury room and the sheriff will take care of you?

(Thereupon at 10:55 o'clock a.m., an adjournment was taken until 1:00 o'clock p.m. of the same day.)

(Thereupon the following was dictated into the record by Mr. Corrigan at 11:00 o'clock a.m., out of the hearing of the jury, the Court and counsel for the State:)

MR. CORRIGAN: After the jury was discharged at the end of the morning session, at the request of the newspapers, the jury was brought back into the room and sat in the room for a matter of -- how long, 15 minutes, 10 minutes?

MR. CLIFFORD:

(Cleveland Press)

Yes.

MR. CORRIGAN:

(Continuing) And were

subjected to photography, photographing and television cameras by at least 10 cameramen who mounted themselves on chairs, the Judge's bench and various parts of the room. This was all done out of the presence of the defendant, Sam Sheppard.

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(Thereupon at 1:00 o'clock p.m., Wednesday, November 3, 1954, the jury was conveyed by Cleveland Transit System bus to the defendant's premises.)

(Thereupon, upon request of counsel, the following comments were made by Sheriff Sweeney to the jury on the premises:)

(The following comment was made on the second floor of defendant's home:)

SHERIFF SWEENEY: That's a linen closet.

(Thereupon the following comments were made in the basement of defendant's home:)

SHERIFF SWEENEY: Come right in this way. Observe the bag. Observe this bag, and this is a basket, observe that, too. Here's a shower.

(Thereupon the following comments were made by Sheriff Sweeney in the defendant's den:)

SHERIFF SWEENEY: That's Westlake Road out there. This is Westlake Road to the south here as you look out of this window.

Observe those chairs, this one and that one over there, in fact, everything that's in the room.

MR. CORRIGAN: We want this paper. Is there any objection?

MR. DANACEAU: There is no objection,

but there isn't any point in --

MR. CORRIGAN: I want to do everything according to Hoyle. I want to get these things, and I want you people to see me get them.

MR. PARRINO: We are here to view the premises now.

MR. CORRIGAN: I know. It has nothing to do with viewing the premises, but this is the first time he has been here.

MR. PARRINO: It is not the first time that he has ever been in here, sir. He was here before, on July 9th.

(Thereupon the following comments were made in the living room of the defendant's home:)

SHERIFF SWEENEY: Ladies and gentlemen, step this way, please. I want you to observe the couch here. There is a switch over here, there is a switch right there going upstairs.

I call your attention to this chair and this table and these other two chairs, and the position of the television set and the cigaret tray.

I also want you to observe these two chairs here.

I call your attention to these cigaret trays on this table.

I call your attention to the lamp in the corner.

Calling your attention to all of the furniture, observe all of the furniture in this room; also the walls and also the lock, night lock on this door. And also observe this door at the end of the hall.

I want you to observe this door and the panels and knobs inside and out, including the windows.

Ladies and gentlemen, step over here, please. I want you to observe the fireplace and everything around it.

Step this way, please. I want to call your attention to the radio here.

I want you to observe this door and the lock, the position of it.

Have you all seen it?

A JUROR: No, not yet.

SHERIFF SWEENEY: Step over so you can all see it.

You will observe this toy airplane.

MR. CORRIGAN: They don't all hear you.

SHERIFF SWEENEY: I call your attention to this toy airplane here on that table.

I want to call your attention to the furniture on the porch here. I call your attention to this door.

(Thereupon the following comments were made

while standing outside defendant's home, on the north side of said home:)

SHERIFF SWEENEY: I call your attention to this door. I want to call your attention to this porch up here, and that window, and the door that's on that porch.

(Thereupon the following comments were made at the door leading into the defendant's garage, said door being on the north side of defendant's home:)

SHERIFF SWEENEY: I want you to observe this stairway and the door up at the top.

MR. CORRIGAN: Have them go upstairs.

MR. GARMONE: Have them go upstairs and look at it.

SHERIFF SWEENEY: Yes.

(Thereupon the jury viewed the defendant's garage, stairway leading to room over garage, and also room over garage.)

SHERIFF SWEENEY: I want to call your attention to the tree here.

Now, around on the other side of the house.

I call your attention to the house next door and the distance between them.

A JUROR: To that tree there?

SHERIFF SWEENEY: That tree right there, yes, and this house next door and the distance between them.

(Thereupon the following comments were made at the north of defendant's home:)

SHERIFF SWEENEY: I call your attention to these trees here, and the window upstairs, and the top of the porch.

(Thereupon the following comments were made at the top of stairs leading to bath house:)

SHERIFF SWEENEY: Ladies and gentlemen, I want to call your attention to these stairs here, and the top of that porch, in relation to the back door.

(Thereupon the following comments were made on the platform of the bath house:)

SHERIFF SWEENEY: Ladies and gentlemen, I want to call your attention to the pier over here and also in the other direction, the pier right over here. Come out where you can see it. The pier right here and also the one down there.

While you are all together, I want you to observe the rail as you are going up the steps.

(Thereupon the following comments were made at the top of the stairs leading to bath house:)

SHERIFF SWEENEY: Ladies and gentlemen, calling your attention to the lights on the boathouse there, the two lights, and also the steps, the narrowness of the steps going down to the beach.

(Thereupon the following comments were made in the front of defendant's premises:)

SHERIFF SWEENEY: I want you to observe these two trees here, and also these other trees along the road, and this tree, how close it is to the road. This is the road leading into the home. Also observe all the trees on this road as far as you can see.

Observe how close this driveway is to that tree.

MR. GARMONE: Now will you take them down here to a cemetery about four hundred feet west? You can put them on the bus and you can observe it from there, if you will.

SHERIFF SWEENEY: I think we will do that. We will put them on the bus and observe it from there.

Have you anything further?

MR. GARMONE: That's all I know of.

Will you just point it out to them to look at that? That's all.

(Thereupon the jury returned to the Cleveland Transit System bus, after which the following comments

were made on said bus:)

SHERIFF SWEENEY: I want to call your attention to a cemetery about 400 feet down here. I want to call your attention to observe this cemetery here, and then we will turn around and go back.

That's the cemetery. Observe the cemetery.

(Thereupon the following comments were made enroute to the courthouse:)

SHERIFF SWEENEY: Ladies and gentlemen, observe the building here. It's a hospital. Also this home next door. That's a hospital and that's a home next door. I want to call your attention to those two places.

(Thereupon the jury was returned to the Criminal Courts Building.)

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Thursday Morning, November 4, 1954.
9:30 o'clock a.m.

MR. CORRIGAN: If the Court please,
I desire to renew my motion for a continuance of
this case, for a change of venue, for the withdrawal
of a juror and for a mistrial.

(To the reporter): Would you read what I
dictated yesterday?

(Thereupon the following was read by the
reporter, being taken at 11:00 o'clock a.m.,
Wednesday, November 3, 1954:

"After the jury was discharged at the end
of the morning session, at the request of the
newspapers, the jury was brought back into the
room and sat in the room for a matter of -- how
long, 15 minutes, 10 minutes?

"Mr. Clifford: 10 minutes, yes.

"Mr. Corrigan: (Continuing) And were
subjected to photography, photographing and
television cameras by at least 10 cameramen who
mounted themselves on chairs, the Judge's bench
and various parts of the room. This was all done
out of the presence of the defendant, Sam Sheppard.")

MR. CORRIGAN: I also want to introduce,
as part of my motion, Defendant's Exhibits 63, 64 and

65.

(Defendant's Exhibits 63, 64
and 65 were marked for
identification.)

MR. CORRIGAN: When the jury visited
the premises yesterday under the order of the Court,
there was at least 40 reporters there, a great
number of cameramen, and the Cleveland Press hired
a helicopter which continued to swing over the house
and take pictures with a great deal of noise and
racket.

When the jury went through the house, it was
accompanied by a reporter of the Cleveland Press,
Mr. Brady.

So I renew all my motions at this time.

THE COURT: They all be overruled,
and exceptions noted.

(Defendant's Exhibits 63, 64
and 65 rejected by the
Court.)

THE COURT: Let the record show that
insofar as the photographing of the jury panel is
concerned, that that was done entirely outside of
the court proceedings and with the consent and
acquiescence and cooperation of the jurors themselves,
and is what is done and permitted in this court
generally in all cases where that is requested.

MR. DANACEAU: If the Court please, it was our understanding that it was with the Court's approval and the parties' approval that one newspaper man --

THE COURT: The Court will state that; that at the outset of this trial the Court ordered that no pictures be taken of the jurors while the empaneling was in progress, and absolutely refused to permit any pictures to be taken of the jurors in their seats during the empaneling and during the proceedings that resulted from the empaneling, and that the Court had stated to the photographers and to the newspaper representatives that if and when a jury was finally seated, that they would be permitted, outside of the court sessions, to have a picture of the jury, if all jurors were agreeable to that procedure.

MR. DANACEAU: It is also our understanding that this one reporter who was permitted to enter the house at the same time that the jurors were in there was by arrangement amongst all the newspapers and with the approval of the Court.

THE COURT: No, sir, that is not quite correct. The situation as to the one newspaper man is this: That when the Court was approached

several days ago about the matter, the Court said that he had no authority whatever to permit anyone to go on the Sheppard property, that he was not in charge of the property, it was not his property to control, excepting to the extent of having the jury visit and those necessary with the jury to visit the property.

The newspapermen then informed the Court that they would like to ask the County prosecuting attorney representatives, counsel for the defense and some members of the Sheppard family and secure their consent; and I think, if the reporter who spoke to the Court is present here, that he will now verify what I have said, that I then said that I had no right whatever to permit anybody on the property, but that if it was agreeable to the State, to counsel for the defense and to the Sheppard family, of course, I had no objection whatever and had really no jurisdiction over the matter.

MR. DANACEAU: I want the record to further state that this reporter who was in the place came to us and told us that he had the approval of counsel for the defense as well as our approval.

MR. CORRIGAN: He had no approval of mine.

MR. PARRINO: May I say, if the Court please, and may the record also show that at the property, at the premises yesterday, the Sheppard residence, while the jury was there at the scene, that I personally spoke to Mr. Garmone on that subject and stated to him at that time that, "The jury is here present. We are about to view the scene. A Tom Brady, of the Cleveland Press, I am given to understand, after having spoken to you, wishes to view the premises."

And I asked Mr. Garmone directly at the scene, "Do you, sir, have any objection whatever to the newspaper reporter viewing the premises along with the jury?"

And Mr. Garmone stated to me specifically at that time that he and the defense did not have any objections whatsoever to Mr. Brady accompanying the jury.

And may I further say that Mr. Garmone is, of course, here present in the courtroom at this time, and if these statements that I represent to the Court here and now are not true, I should like for Mr. Garmone to so state for the record.

MR. GARMONE: With one exception, that I added the statement that Mr. Brady had received

permission from the members of the Sheppard family.

MR. PARRINO: I beg your pardon.

MR. GARMONE: With one exception your statement is correct, that Mr. Brady had received, had asked permission and received permission from the Sheppard family.

MR. PARRINO: Then I take it that Mr. Brady, in addition to what I have stated --

MR. GARMONE: I say, I am just making that statement. I answered your question.

MR. PARRINO: In addition to what I have stated, if I understand you, sir, Mr. Brady, according to his representations to you, had also received permission to view the premises from the Sheppard family?

MR. GARMONE: That's right. We don't want to withhold anything.

THE COURT: Let's have the jury.

MR. CORRIGAN: I would like to make one further request, your Honor, that one -- I suppose there will be a separation of witnesses when we start the trial of the case.

THE COURT: I don't know. There is no request yet. It will come.

MR. CORRIGAN: Yes. Would you just wait

a moment, Eddie?

I would like to request that one member of the Sheppard family, who will be a witness, be allowed to remain in the courtroom so that I may be able to consult with him from time to time about things that may arise in the testimony. The Court realizes that we are very limited in the matter of our investigation, and that the prosecutor has the police department, and we think that we should have one person with whom we could consult from time to time.

THE COURT: Let the decision on that matter rest until the request is made for a separation, and then will you remind me of it then?

MR. CORRIGAN: All right.

(Jury returns to Court Room)

THE COURT: Ladies and gentlemen

of the jury, the next step in this proceeding is for counsel, one of counsel for the State, followed by one of counsel for the defendant, to present to you what are usually referred to as opening statements.

What counsel will state to you in these opening statements is not evidence and is not to be considered by you as evidence at any time or for any purpose.

These statements have a limited and yet very

important purpose. They are for the purpose of giving you what might be termed a preview of this case to give you an idea, in general terms, what it is all about from their viewpoint. They will indicate to you not what the evidence will be but what they now expect and believe the evidence will be, and that is why the statements that they will make to you are not evidence at all.

These statements are made in the hope that this preview and this idea of what they expect the evidence will be in this case will assist you in understanding the testimony as it unfolds during the coming days from the mouths of the witnesses from this witness stand.

The State.

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