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Sam Reese Sheppard

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Prospectus of the Book

100

Private Lives. Public Actions:THE SHEPPARD CASE

by

Sam Reese Sheppard and Cynthia L. Cooper

for

Northeastern University Press

The Sheppard case is unusual in the American justice experience. Unlike virtually any other case, here is one that captured headlines for years, became a subject of books, articles, media presentations and living room speculation, and, in addition, established precedents that have shaped the law.

Other cases that made news headlines -- from the Lindbergh case and the trial of Bruno Hauptmann, to the trials of Sacco and Vanzetti, or Leopold and Loeb, or even Claus von Bulow, Pamela Smart, any "story of the century" -- never had serious Constitutional import. On the other hand, most cases that were the basis for major Constitutional decisions -- from Mapp to Miranda to Gideon -- were barely known to the public before the U.S. Supreme Court agreed to review them. The Sheppard case is one that traversed the crossroads of public interest and Constitutional regard.

The congruence of public attention and Constitutional interpretation was not coincidental. The implications from overwhelming publicity and the explosion of media in 1954 became the very basis of the Supreme Court decision in 1966. But, although the case had travelled the years of time, the Court ruled by an overwhelming 8-1 majority that the trial had been tainted and due process destroyed because of "massive, pervasive, prejudicial" publicity. In establishing, for the first time, clear fair trial-free press guidelines for trial courts to follow, the Court made a dramatic statement about its expectations for the future conduct of trials in the face of major media attention.

The Supreme Court decision in Sheppard v. Maxwell has been cited 1,340 times by other courts in the twenty seven years since it was decided. Since 1980 alone, the Sheppard case has been mentioned in 840 scholarly law review articles on a variety of Constitutional subjects, ranging from fair trial and free press to jury selection methods, bias from the bench, and the standards of review by the courts.

But behind this very unusual case is another concern -- the effects on the lives of the people involved. Being deprived of "due process" was no mere abstraction to Dr. Sheppard and his family. Being the participant in a trial that was later described by the

nation's highest court as having a "carnival atmosphere" in which "bedlam reigned" created personal chaos for the defendant.

Dr. Sheppard, unlike many who become involved in the criminal justice system, was well-educated, middle class, mainstream, successful. But even for him, the criminal justice system in which he found himself immersed was incomprehensible, alien, frustrating, debilitating. The murder, trial and aftermath plunged the Sheppard family into an unfamiliar world, and one that, bit by bit, destroyed them.

As public as the Sheppard case was in one sense, it was a personal and private drama in other respects -- one that unfolded only behind the scenes. Any single event -- the murder in the family -- would have had a life-changing impact. The sudden suspicion of Dr. Sheppard, the media's vicious assault on his character, the seeming hysteria that accompanied the case, the failures of the justice system, presented personal challenges of great magnitude. As letters, journals and private conversations related, the Sheppards struggled to "endure and conquer." Some did; others did not.

Often, the justice system becomes a conglomeration of "facts" -- names, events, dates, citations. The effect of these actions on the individuals is often lost.

This book, Private Lives, Public Actions: The Sheppard Case will be a rare opportunity to analyze the impact of a single landmark case in both individual and societal terms.

This book is a documentary volume that will support and amplify the book, "Justice Awakens" (working title). Co-authored by Sam Reese Sheppard and Cynthia L. Cooper, "Justice Awakens" is an account of the murder of Mrs. Marilyn Sheppard, the wrongful conviction and ultimate release of Dr. Sam Sheppard, and the search of son Sam Reese Sheppard to identify the true murderer. "Justice Awakens" will contain various scenarios of the murder, including new evidence that has been uncovered in the past five years about a likely suspect not previously considered.

Private Lives, Public Actions will show the private and public effects of the Sheppard case by exploring the deeper philosophical, social, legal and psychological ramifications on individuals and the society. The work is designed for scholars and students in the fields of sociology, criminology, law and journalism, and classroom use is anticipated.

There will be three major components to the book:

-- 1) THE CASE: The first section, approximately 80 pages, will be a discussion of the events in the Sheppard case.

-- 2) PERSONAL: A second component of this book will consist of private letters and writings to and by Dr. Sheppard, including correspondence and diaries that he kept in his ten years of incarceration that show his attempts to understand the system around him and his struggle to maintain hope throughout the loss of his wife, suicide of his mother, death of his father, appeals, the arbitrary decisions of the prison system.

This portion of the book will be integrated with the essays to provide the reader

with an opportunity to reflect on and compare individual ramifications arising from the case with the larger social issues connected to it.

-- 3) THE PUBLIC: The major component of this book and the spine which holds it together will be a series of essays from respected scholars and critical thinkers. These essays, which will be 10 to 20 pages in length will relate to areas of fundamental concern raised by the Sheppard case and of continuing discussion today.

The essays that will be included in this volume are:

a) Introduction: How "justice" affects individuals and society will be discussed from a personal perspective in this brief introduction by someone personally acquainted with the Sheppard case.

b) Media: The effect of the media on the Sheppard case and the effect of the decision in the U.S. Supreme Court in Sheppard case will be discussed in this article, including an update on media and justice issues.

c) Police Science and Forensic Investigation: In the Sheppard case, the initial investigation was tangled by inept handling by early investigators and the capitulation of the police forces to pressure by the press to "solve" the case. This article will discuss police neutrality, police prejudice and how police investigations should be conducted.

d) Jury Science: In the Sheppard case, the jury was not sequestered, the venue was not changed, and the defense attorney was castigated for attempting to conduct a jury poll. Juror selection and insulation from extensive publicity continues to be an issue in the criminal justice field and will be the subject of this essay.

e) Criminal Procedure: Criminal procedure is commonly brushed off as a mere "technicality", but as the Sheppard case shows, it is the heartbeat of a trial. This essay will discuss how criminal procedure impacts on the trial and the current status of criminal procedure.

f) Forensic science: Not only was forensic evidence mishandled in the Sheppard case, but the abilities and nature of forensic science has changed. This essay will examine the role of forensic evidence, how it has changed, what it can do, what it can't do.

g) Cultural Mores and the Law: The moral values and views of women, "family", and society were powerful underlying themes in the Sheppard case. Underlying values cast victims and defendants in roles that are hard to shake. The complex interactions between pervasive social mores and the search for the "truth" will be the subject of this far-reaching philosophical essay.

h) The Prison Experience: Discussions of criminal procedure often do not look

beyond the trial to the prison experience. Imprisonment impacts not only on the individual, but on families, children and, in subtle ways, society at large, as discussed in this essay.

i) **Sociology of Injustice and the Community:** Although thousands of murders have come and gone in the intervening years, the Sheppard case has left a mark on a wide community: police officers, neighbors, press members, children. This essay is about how and why a legal case becomes a part of the fabric and mythology of a community, how injustice and media images can continue to linger for many years thereafter.

j) **Righting the Wrong:** A person who has been wrongfully convicted, even if released on appeal, is often left empty-handed, with limited recourse. Compensation for what has been lost is difficult and often impossible, as discussed in this essay.

k) **Victims:** When the Sheppard case was at hand, the role of the victim in the criminal system was little considered. Understanding how the criminal justice system and the media can affect victims is still growing. Victims can easily be led to a venting of anger, when what is needed is healing, as will be discussed in this essay by co-author Sam Reese Sheppard.

This one essay will uniquely combine and incorporate the theme of the book -- the private and the public -- as a concluding piece for the volume.

These essays, as a whole, will analyze and rethink important and critical concerns for society. Interlaced with journals, letters, memoirs and transcripts, the effect will be to remove the discussion of essay subjects away from an intellectual perspective, to a more complete, fully rounded view of private and public consequences.

Authors/editors Sam Reese Sheppard and Cynthia L. Cooper are working collaboratively on the volume linked to this book ("Justice Awakens"). Mr. Sheppard is a writer and anti-death penalty activist, and the only son of Dr. and Mrs. Sheppard. He has maintained a compilation of over forty years of letters, memoirs and notes of the Sheppard case. Ms. Cooper is a lawyer and the author of Insider's Guide to the Top Fifteen Law Schools (Doubleday); Homeowner's Guide to the Law (Consumer Reports), many articles, television programs, pamphlets and publications about the law. She has edited several legal newsletter publications; was the Court Information Officer for the Minnesota Supreme Court; the author of scholarly published articles on criminal restitution and medical experimentation on prisoners; and is also a dramatist and playwright.

This book will make a distinctive contribution to an interdisciplinary understanding of how contemporary criminal justice concerns affect the individual and society. By specifically focusing on the details of one case and the larger issues upon which it touches, Private Lives, Public Actions will offer a fresh approach to complex issues of justice and fairness.