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54/08/02 Public Barred at Hearing for Doctor Today

Cleveland Plain Dealer

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MSL

ACADEMIC ENDEAVORS

Public Barred at Hearing for Doctor Today

BY PAT GARLING

Spectators are to be excluded this morning when Dr. Samuel H. Sheppard appears at Lakeside Courthouse where Common Pleas Judge Frank J. Merrick will hear an application for a writ of habeas corpus to free him.

Judge Merrick said last night that only the principals, the working press and practicing attorneys would be permitted in Court Room No. 1 when the hearing starts at 10:15 a. m.

"I won't have any mob scenes in the courtroom," the judge said.

He reported having received telephone calls from persons who wished to attend the hearing.

"Exclusion of spectators is perfectly legal," Judge Merrick said. "The Ohio Supreme Court has ruled that, as long as the press is represented, it is a public hearing."

In Sheriff's Custody

Dr. Sheppard will be taken to the court from his cell in County Jail in the custody of Sheriff Joseph M. Sweeney, against whom the writ is directed. The sheriff must bring the prisoner into court and show why he is holding him.

Sweeney will be represented before the court by the county prosecutor's office, most probably by Assistant County Prosecutor John J. Mahon. Sheppard will be represented by Attorneys William J. Corrigan and Arthur E. Petersilge.

Corrigan has already subpoenaed to the hearing Bay Village Mayor J. Spencer Houk, Police Chief John P. Eaton, Council President Gershon M. M. Barber, Patrolman Fred F. Drenkhan and Gerhard J. Deutschlander and Police Lieut. Cliff Mercer.

Warrant Held Illegal

The lawyer said the warrant charging first-degree murder was illegal in that it was issued by Barber, who acted for Mayor Houk. He contended a mayor or a justice of the peace cannot delegate his authority in the issuance of a warrant.

Friday night Barber signed the warrant for Dr. Sheppard's

(Continued on Page 9, Column 3)

BARS VIEWERS AT DR. SAM HEARING

Judge Merrick Will Get Freedom Plea Today

(Continued From First Page)

arrest on information given by Chief Eaton. Drenkhan, Mercer and Deutschlander made the arrest. Mayor Houk stepped aside because, as first on the murder scene July 4, he is a material witness.

Barber said he found nothing illegal in his actions. Quoting from Article II, Section II, Part 6, on the duties of the president of Council under the Bay Village City Charter, Barber said:

"When the mayor is absent from the municipality or unable for any cause to perform his duties the president of Council shall become the acting mayor and during such periods shall have the same powers and perform the same duties as the mayor."

Weygandt to Appear

Also to be present at the hearing is Richard S. Weygandt, the Bay law director, who made the decision that there was probable cause to believe Dr. Sheppard guilty of the murder of his wife and that his arrest should be made.

Corrigan has said he will ask for bail for Dr. Sheppard. It is

not usual for such a request to be granted where a first-degree murder charge has been made.

Should Judge Merrick order Dr. Sheppard's release from custody, authorities plan to re-arrest him immediately. It was reported a warrant charging first-degree murder would be sought from Justice of the Peace Myron J. Penty, whose offices are across the street from the courthouse.

Authorities would then have

10 days to hold Dr. Sheppard before bringing him up for examination at a preliminary hearing.