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## 54/08/05 Here are Legal Entanglements in Sheppard Murder Case

Cleveland Press

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# Here Are Legal Entanglements in the Sheppard Murder Case

Here is the legal status of the Sheppard murder case:

Dr. Samuel H. Sheppard is under arrest, charged with the premeditated murder of his wife, Marilyn.

The arrest was on a warrant signed by Bay Village Council President Gershon M. M. Barber.

Barber's legal authority to sign the warrant was challenged by Chief Defense Counsel W. J. Corrigan, but sustained by Common Pleas Judge Frank J. Merrick. Corrigan has appealed this decision.

Under Ohio law, a person charged with murder must receive a preliminary hearing within 10 days after his arrest.

The hearing, before a magistrate, determines whether there is sufficient evidence to hold him for Grand Jury indictment.

Corrigan has obtained a temporary writ of prohibition barring Barber from presiding at Dr. Sheppard's preliminary hearing, which is scheduled for 1 p. m. Saturday at Bay Village City Hall.

Arguments on whether the temporary writ should be dismissed or made permanent will be heard by the Appellate Court at Lakeside Courthouse at 10 a. m. tomorrow.

The three-judge panel may either rule from the bench or

take the matter under advisement.

If they delay their decision, the preliminary hearing is automatically postponed until they render a decision.

A preliminary hearing may be postponed by the prosecution only with defense consent. If a green light is flashed for the preliminary hearing to proceed Saturday, it may be postponed no later than Monday.

If Corrigan loses his bid to bar Barber from presiding, he may then—as he indicated he would—file an “affidavit of prejudice” against the Bay Village official. This would be filed in Common Pleas Court, and the hearing would again be delayed until a ruling is hand-

ed down.

The preliminary hearing could be bypassed by the prosecutor's office taking the case directly to the Grand Jury for indictment.

Usually, the prosecutor discloses only sufficient evidence to show “probable cause” to hold a suspect for the Grand Jury at a preliminary hearing.

Testimony of witnesses at a

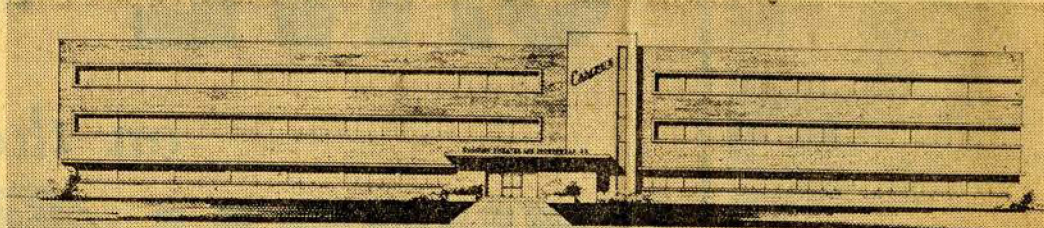
preliminary hearing often become the subject of controversy at a subsequent Common Pleas Court trial.

Persons charged with first degree murder are usually held in the County Jail without bail until their trial.

The defense may choose to have the trial before a jury or a panel of three Common Pleas judges.

A motion for a change of venue, on a defense claim that public sentiment in the community would interfere with selection of an impartial jury, would be ruled on by a Common Pleas judge.

It would be possible to have the trial before three out-of-town judges, whose salaries and expenses would be paid by Cuyahoga County.



**EXCAVATION** for \$1,500,000 main office and stockroom for Campus Sweater & Sportswear Co. began yesterday on the northwest corner of Euclid Ave. and E. 40th St. The three-story, tan-brick building will contain 140,000 square feet and air-conditioning. Formerly the Wade estate, the site fronts 306 feet on Euclid and 333 feet on E. 40th and will include off-street parking for 150 cars.