

Thereupon HOWARD L. BARRISH , being first
duly sworn, was examined and testified as follows:

EXAMINATION OF PROS. JUROR HOWARD L. BARRISH

By the Court:

Q What is your name, please?

A Howard L. Barrish. ✓

Q Where do you live, sir?

A 7231 Lancashire Road. It is in Cleveland Heights.

Q How long have you lived there?

A About six months.

Q Where did you live before that?

A In South Euclid.

Q You are coming nearer town.

A Pardon?

Q All right.

MR. CORRIGAN: What is the address?

MR. GARMONE: 7231 Lancashire Road.

MR. CORRIGAN: I have 4178 Wilmington

Road for this witness.

PROS. JUROR: BARRISH: That was before I
moved.

THE COURT: Was in South Euclid
before he moved to Lancashire in Cleveland Heights.

MR. CORRIGAN: All right.

Q How long have you lived in South Euclid?

A About three years.

Q What is your occupation or profession?

A I am a timekeeper for Republic Steel.

Q And how long have you held that position?

A Well, about three years. I have been employed there nine and a half years.

Q Do you know the County prosecuting attorney or any member of his staff? His name is Frank T. Cullitan.

A No, sir.

Q Have you any members of your immediate family who are members of any law-enforcing agency anywhere?

A No, sir.

Q Police force or --

A No, sir, none whatsoever.

Q Have you heard of this case before?

A I have read a little bit about it, sir. ✓

Q Have you formed an opinion as to the guilt or innocence of the defendant?

A None whatsoever.

Q If you were selected as a member of this jury and the eleven jurors other than yourself were convinced that the defendant is guilty of murder in the first degree, and you were also convinced of the same fact, could you join your eleven fellow-jurors in finding the defendant guilty of murder in

the first degree if, at the same time, you knew that that finding would obligate the Court to impose the sentence of death? ✓

MR. GARMONE: I will object to the question as to its form.

THE COURT: Objection will be overruled.

MR. GARMONE: Exception.

Q Do you understand my question?

A Will you repeat it once, please?

Q I will try to abbreviate it now. If the other eleven jurors were convinced that the defendant is guilty of murder in the first degree, and you were also convinced by the evidence, could you join your fellow-jurors in finding a verdict of murder in the first degree, if you knew, at the same time, that that would mean a sentence of death?

A Yes, sir. ✓

Q So I take it from your answer that you do not have any religious or conscientious social objections to capital punishment, as such?

A That's correct.

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MR. CORRIGAN: We object to the question in the form it is put. You are emphasizing to each one of these jurors in your questions the death penalty. ✓

THE COURT: We will withdraw the question and the answer will be withdrawn.

Q Do you have any religious, conscientious or any other objections to capital punishment as such?

A No, sir.

MR. CORRIGAN: The statute merely provides that in the trial of a capital case, it is a proper challenge for cause if a person does not believe in capital punishment, and I don't think the questions can proceed beyond that. The Court now, in all these questions, is emphasizing the death penalty.

THE COURT: But, Mr. Corrigan, under the law of our State the jurors govern the death penalty.

MR. CORRIGAN: I know, but the statute confines it, and the Court is going far afield in its questioning.

THE COURT: I don't think so.

Q Have you received any communication, telephone or mail or other from anyone concerning this case or anything related to it since you were summoned here as a juror?

A Nothing at all, sir.

Q Do you know any of the Sheppard family?

A None at all.

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

A No one at all.

Q You heard the Court define a fair and impartial juror, did you not?

A Yes, sir.

Q And having in mind that definition, are you satisfied that you could be a perfectly fair and impartial juror in this case?

A Yes, sir.

THE COURT: Mr. Mahon.

MR. CORRIGAN: Will you pardon me a moment, Mr. Mahon?

I do want to discuss for a moment this question that you have been asking, your Honor, and which you have been emphasizing, as to the belief of a person in the death penalty.

There is also in a first degree murder a recommendation of mercy. You don't mention that. You mention the death penalty, and while you, as a Court and as a Judge, ask that of the jurors, you emphasize to that juror's mind the death penalty. ✓

The fact that a person does not believe or does believe in capital punishment is not anything that has -- that the Court has anything to do with in a

capital case. That is a question that is to be raised by the prosecutor, and he may pass, as far as he is concerned, if he wants to. I don't say that he will, but he has the privilege of passing and not exercising that challenge, and I don't think the Court ought to at all touch upon that question. It is entirely a matter of the prosecutor whether he wants to exercise a challenge in the matter, and that is the statute, 2945.25. So I object --

THE COURT: As the Court read that last night, it is not only the Court's privilege, but it is the Court's duty, and the Court doesn't want to shirk that duty.

MR. CORRIGAN: I know, but you ask the juror also does he believe in recommending mercy in a first degree murder case.

THE COURT: The Court will instruct the jury when the time comes as to what they may do.

MR. CORRIGAN: After you have instructed them in their voir dire examination and questioned them about their beliefs in capital punishment?

THE COURT: I am not instructing the gentleman at all. I am asking him if he has any objections.

MR. CORRIGAN: Supposing he has? The

prosecutor, the man who is trying the lawsuit for the State, is the person who is to exercise the challenge.

MR. DANACEAU: That is not true at all. One of the specific causes for challenging for cause in a capital case --

MR. CORRIGAN: Let him exercise it.

MR. DANACEAU: Bill, can we have a moment to say a word outside of yourself?

The Court will find that specifically that is one of the grounds for challenge for cause, that is, a known belief in capital punishment.

MR. CORRIGAN: The Court doesn't exercise challenges for cause.

MR. DANACEAU: The Court rules on it.

THE COURT: Let's get the statute. What is the number of that section?

MR. CORRIGAN: 2945.25. That is the revised statute.

THE COURT: 2945.29, is it not?

MR. CORRIGAN: 2945.25.

THE COURT: All right. Thank you.

Do I understand you to maintain that the Court goes beyond his jurisdiction?

MR. CORRIGAN: Yes. I think you go beyond

your jurisdiction. You are not only doing that, you are emphasizing a finding of guilt in your examination. You are talking to this man who has now come into this courtroom and say, "If you find the man guilty and you find evidence sufficient to send him to the chair, will you send him to the chair?"

That is the substance of your question. This man is being impressed by what you say. You are the Judge.

Now, the challenge --

THE COURT: I am not saying. I am asking.

MR. CORRIGAN: I certainly object to that question being asked by the Court. If the prosecutor wants to ask that question and wants to challenge on it, that is perfectly all right.

THE COURT: All right. It is overruled. All right, Mr. Prosecutor, let's go ahead.

EXAMINATION OF PROS. JUROR HOWARD L. BARRISH

By Mr. Mahon:

Q Mr. Barrish, you are married?

A That's right.

Q Family?

A No.

Q You are employed where?

A At the Republic Steel, Steel and Tube Division, at East 131st Street.

Q And you have been employed there for how long?

A I will be employed there for 10 years this coming February 4th.

Q And that is three years as a timekeeper, is that correct?

A About three years as timekeeper. I worked in the general office.

Q Have you brothers and sisters?

A I have two brothers.

Q Older or younger?

A One older and one younger.

Q Are they married?

A One is married.

Q How long have you resided in this County?

A All my life.

Q Did you say that you had read something about this case? ✓

A That's right, sir. ✓

Q Do you know any of the parties whose names were mentioned by the Court and who stood up here when all of the jurors were in the room here?

A None of them at all.

Q Do you know anyone who is connected with the office of the County Prosecutor?

A No one.

Q You have never served as a juror before?

A Never. This is the first time I have ever been out here.

Q Have you ever been a witness in a court?

A No.

Q And I believe you have stated that you have never been the victim of any violence?

A Never.

Q You have stated that you have read something about this case?

A That's right, sir. ✓

Q And can you tell us when you first read something about it?

A I think it was about a week after this occurrence happened.

Q This occurrence happened on the 4th day of July, this year.

A That's right.

Q You read something about it about a week following that?

A I'm pretty sure about a week later.

Q Was that in the daily newspapers?

A Yes, sir. I'm pretty sure it was in the Plain Dealer.

That is the only newspaper that I receive. ✓

Q The Plain Dealer?

A That's right.

Q Have you heard any comments on the radio or television concerning this matter?

A No, I haven't. See, I have new hours at work. I have been on my new job at Republic working 4:30 to 1 o'clock in the

morning, and I don't have time to watch TV or listen to the radio due to the fact that by the time I get up in the morning it is pretty late, and by the time I get breakfast and finish, I am over to see my wife, and we just go out for a bite to eat, and you know, keep her company for the little time I am with her, and then I am back home and ready to make my lunch and get off to work.

So, as I say, I don't have too much time to listen to the radio --

Q Well, have you heard any comments on the radio or have you watched the TV?

A No, sir.

Q Or anywhere where there were any comments concerning this matter?

A None whatsoever. Just from the newspaper, that's all, sir.

Q Did you read more than one article concerning this matter?

A Like I said, I receive the morning Plain Dealer, and about the only chance that I have is to just glance at the front page, and maybe I read, maybe the full column, maybe a quarter of it. It all depends how much time I have.

Q Did you read more than one article concerning it?

A Yes, sir.

Q Can you tell us about how many articles you read?

A Since my name as picked as one of the people to come down here, I have been reading it almost every day now. ✓

Q And when did you receive your summons to report as a juror?

A It was the day after the names were picked from the ballot box.

Q Can you tell us about when that was?

A I forget right now, because I have been so busy at work and doing things.

Q Is it fair to say that it was a month or more ago?

A I guess it is about a month. I don't think it was over a month.

Q You say that you have read something about this matter?

A Yes.

Q Every day since that time?

A That's right. I have been following it up because if I was chosen I'd know something about the case.

Q And before you received your summons, you had also read something about it?

A That's right, sir.

Q And after reading about it, had you any conversation about what you had read concerning this matter?

A No, sir, not that I could remember.

Q Well, from what you remembered, then, --

MR. GARMONE: No, sir. "Not that" --

PROS. JUROR BARRISH: I said, no, sir, not that I could remember.

MR. GARMONE: That you cannot remember?

PROS. JUROR BARRISH: That I cannot remember.

MR. GARMONE: All right.

Q Well, from what you have read, have you formed any opinion as to the guilt or innocence of this defendant?

A No, sir. I cannot say that I have formed an opinion as to whether he is innocent or whether he is guilty.

14 Q Well, is your mind in such state at this time that you could enter into the trial of this case as a juror and be guided solely and only from the evidence that you get from that witness stand?

A I think my mind is like that, sir.

Q And decide the case on the facts that are developed from that?

A Yes, sir.

Q You could do that?

A I think I certainly could.

Q Now, you say that you are not opposed to capital punishment, is that right?

A That I am not opposed.

Q You are not opposed to it?

A I believe in capital punishment.

Q You believe in capital punishment?

A That's right, sir.

Q In other words, you feel that in a proper case, properly proven, you could join in a verdict in which the penalty would be death in the electric chair?

A I could, sir, if the evidence was proven.

Q And when you say that, I am sure you realize the seriousness of a matter 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 Yes, sir.

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

A I certainly am.

Q In the trial of a case of this kind, in fact, in the trial of any kind, there are two parts, you might say, in the trial. There is that part which deals with the facts and that part which deals with the law.

Now, the jury is the body who determines what the facts are, and the jury determines what the facts are from the evidence that they get from that witness stand, and no one can interfere with the jury in determining the facts. The Judge or the lawyers or anyone at all can interfere in the slightest with the jury in determining the facts. You understand that?

A Yes, sir.

Q The other part of this case deals with the law, and while the jury is supreme in determining what the facts are, the Judge presiding at the trial is supreme in determining what the law is that applies to a case of this kind. You understand that?

A Yes, sir.

Q And you understand that it is the duty of the jury to follow the Judge's instructions right to the letter as to the law?

A Yes, sir.

Q Whether you agree with the law that the Judge instructs you, on or not, it is still your duty to follow his instructions as to the law.

A That's right.

Q You feel that you can do that as a juror?

A I certainly do, sir.

Q And even though you think that the Judge is wrong about the law, or that you have some different idea as to what the law is or should be, could you set aside your own opinion and follow the Judge's instructions?

A Well, I will have to set my own opinions as to what I think would be the right thing.

Q I am talking about the law now.

A Oh, about the law?

Q Let me not confuse you, sir. If you don't understand, say so.

MR. GARMONE: May we have his answer
to the question?

(Question and answer read by the reporter.)

THE COURT: Do you understand the
question?

PROS. JUROR BARRISH: I understand it now,
sir.

Q I don't want to confuse you now, and if you don't understand, just say so. You understand on the one hand the Judge instructs the jury as to what the law is, and you are willing to follow the Judge's instructions on that; on the other hand, the jury determines what the facts are, and the jury is supreme and no one can interfere with the jury in that respect. You understand that?

A I understand.

Q In the trial of this case there will be what we call direct evidence and what we call circumstantial evidence. Let me ask you whether or not you have any prejudice against circumstantial evidence?

A No, I don't think I have any prejudice against any circumstantial evidence.

Q Now, when you answered that you said you don't think that you do. Do you know whether or not you do?

A Well, I don't have any prejudice.

Q You do not have any?

A Have any prejudice, that's right.

Q And if the Court was to tell you that circumstantial evidence is proper evidence, and that you have a right to consider it, would you follow his instructions in that respect?

A Yes, sir.

Q And if you felt as a juror that the guilt of this defendant had been proven by circumstantial evidence, could you join in a verdict of guilty based upon that evidence?

A You are talking about circumstantial evidence?

Q That's right.

THE COURT: Do you understand the question?

PROS. JUROR BARRISH: Yes.

THE COURT: If you felt that the case had been proved by circumstantial evidence, could you on that evidence join in a verdict of guilty?

PROS. JUROR BARRISH: I think I could, sir.

Q You again say you think you could. Could you be more positive than that, sir?

A I could, sir.

Q You could. One of the rules of law that I am sure his Honor, Judge Blythin, will instruct you on is that at the outset of this trial, right at this moment, that the law provides that this defendant is innocent, and that that presumption of innocence is to carry on through him throughout the trial until such time, if such time ever comes in the trial of this case, that his guilt is proven beyond a reasonable doubt, that he is guilty.

Now, if the Judge should charge you that that is the law,

could you follow that instruction?

A I could, sir.

Q And can you at this time give this defendant the benefit of that presumption of innocence?

A I could, sir.

Q Do you feel in your own mind at this time, considering what you have read about this matter and all of the things that have been said to you here today, do you feel that you could now enter into the trial of this case with a free, open mind and decide this case on the evidence that you get here in the courtroom and not be influenced in the slightest by anything that you have heard outside of this courtroom or read in any paper, or --

A Yes, sir, I believe I could.

Q You say again you believe you could.

A Yes, sir.

Q Could you be more positive on that, sir?

15 A Well, I know I could.

Q You know that you could?

A I know that.

Q Now, have you received any letters or any other form of communication concerning the matter that is now on trial here?

A I have received nothing whatsoever.

Q Within the past week or 10 days, have you received any mail concerning this matter?

A I have received no mail, no communications whatsoever.

Q Can you think of any reason now, sir, -- and I want you to search your own mind thoroughly -- think of this question for a moment -- can you think of any reason at all why you could not sit here as a juror in this case and render a fair, just and impartial verdict?

A I don't see any reason why I couldn't sit here and render a fair verdict.

MR. MAHON: Pass for cause.

EXAMINATION OF PROS. JUROR HOWARD L. BARRISH

By Mr. Garmone:

Q Mr. Barrish, how long had you lived at the address 4178 Wilmington Road?

A I'd say about six months, sir.

THE COURT: Just a minute. I think he misunderstood your question. He is asking how long you lived at Wilmington.

PROS. JUROR BARRISH: Wilmington or the present --

Q Wilmington Road.

A About two years.

Q How old are you?

A 28.

Q Married?

- A Yes.
- Q Have any children?
- A No children.
- Q No children. And is your wife employed?
- A Yes, sir.
- Q Where is she employed?
- A She works at Sears & Roebuck.
- Q Any particular branch?
- A She works on 131st off Miles.
- Q Are you steadily employed at the Republic Steel?
- A Yes, sir.
- Q As a timekeeper?
- A Timekeeper.
- Q Is your wife's job a full-time or a part-time job?
- A Full-time job.
- Q Now, prior to having lived at 4178 Wilmington Road, where did you live prior to that?
- A I lived in the city of Brooklyn.
- Q Where at?
- A On Massey Avenue.
- Q Off of 105th.
- A That is 105th.
- Q What address?
- A 10916 Massey Avenue.
- Q And may I inquire, Mr. Barrish, -- I will withdraw that.

Some of the questions that I will ask you during my interrogation may be a little repetitious, but I want you to be patient with me, and there are some questions that I may ask that you may feel have an atmosphere of making an attempt to pry into your private life, but that is not the case.

You see, Mr. Corrigan, myself, Mr. Petersilge, Mr. Corrigan, Jr., have a great responsibility here to perform. Our responsibility is as equal as the responsibility of Mr. Mahon and Mr. Danaceau and Mr. Parrino; greater than the Court's.

Now, I may in my anxiety in determining whether you can qualify as a juror in this case delve somewhat into your private life. Should I do that, would you hold that against the defendant, Sam Sheppard?

A No, sir.

Q You are certain of that?

A I am certain of that.

Q Now, what schools in the city of Cleveland did you attend?

A I have attended Miles Standish Elementary School; Patrick Henry Junior High School, and Glenville High School.

Q Did you continue your education after Glenville High School?

A No, sir.

Q Did you complete your education at Glenville High School?

A No, sir. I left in the 11th grade when the war was on, and I went to work for Republic Steel Company, and I remained

there ever since.

Q And been with the Republic Steel ever since?

A That's right.

Q Now, when you first learned that you were going to be a prospective juror in the case of the State of Ohio versus Sam Sheppard, did I understand you right in that you saw your name in one of the Cleveland newspapers?

A The day that my name was listed in the newspaper, I was at work, and I phoned my wife who was over at my mother's house, and she told me my name was in there, and that is the first time that I heard that.

Q You phoned your wife?

A That's right.

Q After having read your name in the paper?

A No, sir. I phoned my wife and she told me that my name was in the newspaper, and that I was one of the prospects selected for this case.

Q Then you had no knowledge until you had phoned your wife?

A That's right.

Q And the phone call that you made to your wife at that time was not for the purpose of informing her that you had seen your name in the paper?

A That's right, sir.

Q Now, did you have some conversation with your wife then?

A She just told me, sit down, take it easy, that my name was

called, and that's all.

Q Nothing more was said?

A Nothing at all, nothing more.

Q No other discussion regarding the case?

A That's right. Nothing whatsoever regarding my name as being in the paper.

Q Now, after it was disclosed to you by Mrs. Barrish that your name had appeared in the paper, that you were going to be called to see if you could qualify as a juror, was there some discussion had between yourself and some of the people that work around the plant with you?

A No. The very next day --

Q No. I mean on the day that your Mrs. had informed you, did you tell anyone in and about your place of employment that you were one of the persons called as a prospective juror in the case of Sam Sheppard?

16 A No, sir.

Q You didn't say a word at the plant?

A I didn't say a word to anybody.

Q When did you first reveal to anyone that you were a prospective juror?

A The first time was the very next day -- or, no, -- it was the same night when the men came in on the 11 to 7 shift, and they said that they saw my name in the newspaper, and then I told them, "I know, I was talking to my wife and she

told me that my name was chosen as one of the prospective jurors."

Q Was there any discussion there between yourself and these men?

A No, sir.

Q Was there any opinion expressed by any of the men who had stated to you that they had seen your name in the newspaper?

A No, sir.

Q Are you certain of that?

A I am certain of that, very certain.

Q Well, I want you to search back into your mind and see whether or not anybody around your immediate place of employment had expressed an opinion one way or another.

A No, sir. My job, as I said before, as timekeeper there -- in the eight hours that I am there, I am busy putting factors on cards, taking care of all their job cards, and I have very little time to talk to the men at all. I know whatever I do talk to is all company business.

Q Now, you have two brothers, one is older than you are and one is younger?

A That's right.

Q And what are their names, please?

A Leonard and Charles.

Q And is Leonard the older or the younger?

A He is the older.

Q Where is Leonard employed?

A He is a dentist.

Q Where are his offices located?

A He went in with a Dr. Bell. I am pretty sure his office is located on Buckeye. I think it is 129th and Buckeye.

Q Have you talked with him about this matter?

A No, sir.

Q And your younger brother, Charles, is he employed?

A Yes, sir.

Q And by whom?

A The National Spectrographic Corporation.

Q What kind of work?

A Well, he assembles parts for their machines that they make. It is a machine that analyzes oil. Well, I mean that's about all that I know of it.

Q Now, this address at 7231 Lancashire Road in Cleveland Heights, do you live there alone with Mrs. Barrish, or are there --

A There are other tenants there.

Q In the same place?

A In the same home. It is a large home converted into, I'm pretty sure it is seven suites.

Q Will you give me the names of some of those other people who live under the same roof at the address known as 7231 Lancashire Road?

A Well, my landlord, Mr. Feld.

Q What is his first name?

A Sam Feld.

Q Anyone else?

A I don't recall any of the other names.

Q Does he live there with his wife?

A Yes, sir.

Q Have you ever discussed with him, after you had been notified about being called as a juror, this case?

A I have never talked to anyone -- rather, to him or anyone who lives in that home.

Q Well, have you ever discussed this case with anyone prior to the time that you were notified that you may be chosen as a juror in the case of the State versus Sam Sheppard?

A No, sir. I have not talked to anybody. They may have talked to me about the case, but I have never said anything to them regarding --

Q Well, now, those people who talked to you, do you recall who they were? Was it Mr. Feld?

A No, not Mr. Feld.

Q Was it your brother, Leonard?

A Well, no. It was my brother Charles. He talked to me. ✓

Q Well, now, when Charles talked to you did he express his feelings in the matter to you?

A No, sir. He just said, "Your name was picked for the jury. When are you going down?" And that was about it.

Q Nothing more than that?

A Nothing more at all.

Q Am I right in understanding that after you had been officially served with a summons to report to the Courthouse on the 18th of October of this year, that you then began to read the newspapers more?

A That's right, sir.

Q And you read over the various articles that were printed?

A Yes, sir.

Q And you digested those articles?

A Well, --

Q I mean, when I say digested --

A I have a good idea of what was printed in the newspapers.

Q And you did that, I believe you stated, so that you could be better prepared if you were chosen as a juror in deciding the issues in this case? Was that your answer, or did I misunderstand you?

A No. I think -- well, I guess you are partially right.

Q Partially right. Now, will you tell me which portion of my statement or observation to you is right?

A That I read the newspapers to get acquainted with what was printed in there so, just in case I would be called, I'd know something about the case.

Q About the case. Am I correct in saying now that you have come down here and have imbedded in your mind some of the

facts that were reported in the newspapers prior to you coming here today, is that right? ✓

A I recall some of the facts that were in the paper. ✓

Q You recall some of the facts. Now, Mr. Barrish, you are not nervous, are you? <

A No, sir. I was a little bit at first, but I am relaxed now. I am usually the one that at work that asks the questions, so like I am now on the stand, it is reversed.

17 Q Well, do you have any questions that you care to ask me?

A Well, no, sir.

Q Now, in this courtroom, Mr. Barrish, are a good many people. I want you to look around. Most of the people here represent the public or the press of this community and communities far-reaching from the city of Cleveland, radio, television, International News, Associated Press. If you are chosen as a juror, would the locality of these men in the courtroom have any effect on whether you would be able to give all the facts that you hear the attention that they are entitled to?

A I believe I could give all the facts -- that it wouldn't make a difference where these men would be from.

Q Now, when you say "I believe," you know we can't be satisfied with the statement that "I believe I can do this and I believe I can do that," because, you see, we have a young man over there, Mr. Barrish, Sam Sheppard, and he has everything

at stake. You appreciate that, do you not?

A Yes, sir.

Q And you, if chosen, will accept a responsibility that will probably never come to you a second time in your lifetime, so your response that "I believe and I think" cannot satisfy my desire to exercise my obligation to this young man. I have to have something more specific, and if it is more specific, it must be very sincere.

Now, do you say that you still believe, or do you know for a certainty that you could exercise the responsibility if you are chosen as a juror?

A I know as a certainty that I could as a juror.

Q After you had been notified, had you consulted with anybody that may be a member of the legal profession?

A No, sir.

Q No one at all?

A No one at all.

Q Now, Mr. Mahon asked you if you were acquainted with any of the members of the County Prosecutor's office. Represented here is John Mahon, Saul Danaceau, Tom Parrino, who has been absent from the courtroom. However, there are about twenty prosecutors that constitute the office of the County Prosecutor. Do you know any of those people or anybody that is connected with it?

A No, sir.

Q In that office or connected with that office is a detective, Francis McQuinn. Do you know him?

A No, sir.

Q Do you know anybody that is connected with the Sheriff's office?

A No, sir. I do not know anybody on the Cleveland police force at all.

Q Well, I mean the Sheriff's office.

A The Sheriff's office, nobody.

Q Now, there is only one member of the Sheriff's office here this afternoon, and his name is James Kilroy. Do you know him?

A No, sir.

Q Do you know Joe Sweeney?

A I do not.

Q You don't know him at all?

A I don't know him at all.

Q This is Inspector James McArthur. Do you know Mr. McArthur?

A No, sir.

Q Do you know Sergeant Lockwood?

A No, sir, never met the man.

Q Now, Mr. Barrish, it was called to my attention that there had been an investigation conducted, and rightfully so, by members of Inspector McArthur's office of all those people who were called for jury service in this case. Were any of your neighbors contacted?

A Not that I know of.

Q Was there any message brought to you by anybody from the place where you are employed that they had been contacted by any member of the Cleveland Police Department regarding your background and what type of fellow that you are?

A No, sir. I have not heard anything about anybody investigating me.

Q There will be a great number of people called on behalf of the State of Ohio, members of the Coroner's office; we anticipate that there may be called Dr. Sam Gerber, the Coroner of Cuyahoga County. Do you know him?

A I have heard of him. I do not know him.

Q Did you ever meet him?

A No.

Q Did you hear of him before or after you had been summoned as a juror in this case?

A No. I voted on the Dem -- on the ticket, and I have seen his name --

Q You have seen his name. You never had any professional contact with him?

A That's right.

Q No social contact?

A No social. Never met him in person.

Q In that office is a Dr. Adelson.

A Pardon?

Q In Dr. Gerber's office is another doctor. His name is Dr. Adelson. Do you know him?

A No, sir.

Q Do you know a Dr. Sunshine?

A No, sir.

Q Do you know a Mary Cowan?

A No, sir.

Q Have you ever visited the Coroner's office or the Coroner's building?

A No, sir.

Q Judge Blythin touched on a subject matter when you were in here collectively, and he had stated that you were brought in on the case of the State of Ohio versus Sam Sheppard, and there had been an indictment returned charging this young man with murder in the first degree.

The law of the State of Ohio, Mr. Barrish, is this:

Though you may take with you to your jury room a copy of that indictment, the Court will instruct you that under no circumstances whatsoever, and at no time during your deliberation, is it to be considered evidence in this matter, and if you are instructed in that direction by his Honor, Judge Blythin, will you follow those instructions?

A Yes, sir.

Q You see, the purpose for those instructions, the basic principle behind the instructions that the Court will give

18 regarding the indictment, is that when there is submitted to a Grand Jury of the County of Cuyahoga County a case or a statement of fact by a witness or witnesses or people, that it is classified as an ex-parte hearing. There is only one sides goes in there to tell their story, and in this case, the only side that told their story to that Grand Jury was the side of the State of Ohio, and that Sam Sheppard at no time had the opportunity or was afforded the opportunity of telling his story to that same body, so it was a one-sided hearing, and for that reason, the indictment at no time and under any consideration whatsoever shall be considered as evidence in this case. That is the law, and that is the law as you will be instructed by Judge Blythin.

Will you follow those instructions?

A I certainly will.

Q Now, I believe you said you have lived at 7231 Lancashire Road for the past two months?

A For the past five or six months.

Q That is in Cleveland Heights, Ohio?

A Cleveland Heights, Ohio.

Q Well, is there a 7231 Lancashire Road?

A Pardon?

Q Is there a 7231 Lancashire Road?

A 2731.

Q Well, then, it is 7231?

A 2731. I'm awfully sorry.

MR. CORRIGAN: What number do we have
on the --

THE COURT: It is 2731.

Q Now, Mr. Barrish, you have readily responded to the many questions that have been put to you, the first interrogation by Judge Blythin, questions by Judge Mahon, and I have asked you questions, and all your responses have been more or less in the affirmative. It is not that you have come to this building today with a great desire of being a juror in this matter, is it?

A No, sir.

Q On the question of the indictment, you shall be instructed by the Court that it is incumbent upon the State of Ohio to prove beyond a reasonable doubt each and every essential allegation contained in that indictment that revolves around first degree murder. Will you follow those instructions?

A I certainly will, sir.

Q Now, should it develop, Mr. Barrish, that after you heard the facts in the case, and after you have received his Honor's instructions as to the law that he will want you to correlate with those facts, the State has failed to prove each and every essential allegation contained in the indictment, and

that the Court instructs you that under those circumstances it would be your duty to then return a verdict of not guilty, would there be any hesitation on your part?

A No, sir, no hesitation whatsoever.

THE COURT: Mr. Garmone, you don't mean each and every element.

Q Element of first degree murder.

Now, should it develop, after the facts have been given to you if you are chosen as a juror, the State has failed to prove one or two of those elements and maybe have proven only one of the two or three elements that you will be instructed on, and the Court under those circumstances instructs you that it is then your duty as a juror to return a verdict of not guilty, would you follow those instructions?

A You mean if just partially --

Q In your language, it is partially proven --

A Well, --

Q -- and the Court instructs you that each and every element must be proven, would you then hesitate in voting with your fellow jurors in returning a verdict of not guilty?

A I certainly would.

Q Would?

A I would vote not guilty.

Q Would vote not guilty?

A That's right.

Q No question in your mind about it?

A No question on that.

Q There were some questions asked of you that related to the theory of presumption of innocence, that every man is presumed to be innocent until he is proven guilty by proof required beyond a reasonable doubt.

Now, as you look at this young man, do you feel as he sits there now that it would be necessary for him to submit any evidence whatsoever as to his innocence at this point? You hesitate --

THE COURT: Mr. Garmone, that is not a complete question.

MR. GARMONE: I'm sorry?

THE COURT: That is not a complete question. It is not a complete question. Is it necessary for him to furnish evidence as to what?

MR. GARMONE: As to his innocence at this time.

A Sir, I don't know the full amount of evidence there is against the defendant, so it is a pretty hard -- it is pretty hard to answer your question on that.

Q It is pretty hard to answer my question. Well, let me put it in more simple form.

Now, at this point do you feel that this man is presumed to be innocent?

A No, sir, I don't have any opinion if he is innocent or if he is guilty. ✓

Q Now, under the rules of evidence it is incumbent on the State of Ohio, before you can arrive at a verdict of guilty that they must satisfy you beyond a reasonable doubt. You will be so instructed by his Honor. Will you follow that theory and rule?

A Yes, sir.

Q The Court will tell you that the burden of proof, the burden of proving that young man guilty never leaves the State of Ohio, and that the degree of proof is always that beyond a reasonable doubt. Will you follow that rule of law?

A Yes, sir.

THE COURT: We will have a few minutes' recess at this point, gentlemen.

(AFTER RECESS:)

Q Mr. Barrish, how long has your brother, Leonard, been a dentist?

A I think he graduated from Ohio State in '46. I'm pretty sure.

Q Has he ever discussed with you or you with him the field of medicine?

A No, sir.

Q At no time?

A No, sir.

Q Has he ever discussed it in your immediate family circle when you may have been present and heard the discussion?

A No, not at all.

Q Not at all?

A Not at all.

Q Now, as I said earlier in one of my questions, that there will be many witnesses called in this case, and the State of Ohio will probably call witnesses who are members of some of the Police Departments of Cuyahoga County. We anticipate that they will call people who are connected with the Bay Village Police Department, they will call people who are connected with the Police Department of the City of Cleveland. You did say to me that you knew no one connected with either department?

A No, no one at all.

Q Do you know Chief Story?

A I don't know him personally. I have heard of him, and that's the limit.

Q Now, because they are police officers, would you be more apt to give their testimony greater weight and consideration than you would the testimony of the ordinary layman that would testify on the same subject matter?

A Well, they are indulged in that type of work, so they would have more opportunity or they would know better.

Q You mean that their testimony would be of greater credence to you?

A That's right.

MR. MAHON: I object to that, if your Honor please. He said they might be --

MR. GARMONE: If the Court please, the last question I asked this young man -- after his answer to my first question I said, "Then you believe that their testimony would be of greater credence to you," and his answer was, "Yes."

I think under those circumstances I shall now exercise a challenge for cause.

THE COURT: It will be overruled.

MR. GARMONE: Pardon?

THE COURT: You are stating a challenge for cause?

MR. GARMONE: Yes.

THE COURT: It will be overruled.

MR. GARMONE: To challenge this --

THE COURT: It will be overruled.

Q Well, I will ask you again, Mr. Barrish -- and as I said, you must be patient with me, because I can't afford to leave anything undone. You appreciate that, don't you?

A Yes, sir.

Q I've got to do all I can to protect the interest of that young man that is seated over there.

A Yes, sir.

Q Now, do you feel that because a man has been connected with the Police Department of the City of Cleveland, or the Police Department of the City of Bay, or any person who may be associated with a law enforcing agency, that their testimony should receive a greater amount of credence than the ordinary citizen who is not associated with any law enforcing agency, if they were both to testify on the same subject matter?

A Now, what is your definition--

MR. MAHON: I object to the form of that question.

THE COURT: He may ask him what his notion is, and the Court will finally instruct him as to the weight to be given all testimony.

MR. MAHON: My objection, if your Honor please, is that he asked him if a police officer testifies or a layman testifies, whether he will give him any greater credence or not. Well, now, I think it should be included in there --

MR. GARMONE: Because of the fact that he is --

MR. MAHON: Because of the fact that he is a policeman.

MR. GARMONE: Because of the fact that he is a police officer. I said that.

MR. MAHON: No, you didn't say that.

MR. GARMONE: Well, I am sorry. Well, then, I will include it, Mr. Barrish.

Q Because of the fact that he is a police officer, would you give his testimony greater weight and consideration than you would a layman? ✓

A Yes, sir. ✓

Q You would? ✓

A Yes, sir. ✓

MR. GARMONE: I renew my application that Mr. Barrish be challenged for cause.

THE COURT: Mr. Barrish, if the Court should instruct you that you are to weigh all testimony and that the testimony of a person, one person, is

entitled to the same consideration as the testimony of every other person, without regard to station in life nor public office held or any of those things, would you follow the instructions of the Court on that?

PROSP. JUROR BARRISH: Yes, sir.

THE COURT: And if the Court were to tell you that you are to weigh the testimony of a police officer on the same basis precisely as you weigh the evidence of any other -- of any layman, would you follow that instruction?

PROSP. JUROR BARRISH: Yes, sir.

THE COURT: Proceed, Mr. Garmone.

Q Judge Blythin has -- I will withdraw that.

You understood the question I asked you, did you not?

A Yes, sir.

Q It was in simple form. And your answer to the question was yes?

A Yes, sir.

Q And then Judge Blythin asked a few questions on the same subject matter, and your answer was that you would follow his instructions?

A Yes, sir.

Q As to what the law is?

A Yes.

Q Now, aren't you still of the opinion, Mr. Barrish, as you stated to me earlier, that you would be more apt to give the testimony of a police officer greater credence than that of a layman because of the fact that he is a police officer?

A That's right.

Q You are still of that opinion?

A I am, sir.

MR. GARMONE: I renew my motion to challenge this witness for cause.

MR. MAHON: May I ask a question, your Honor?

THE COURT: Yes.

MR. GARMONE:: I am not through with this juror, please.

MR. MAHON:: Well, wait a minute. You are challenging, and I asked if I might ask a question.

MR. GARMONE: Will the Court rule on my challenge for cause?

MR. MAHON: I would like to ask a question before the Court rules on it.

THE COURT: You may ask the question

BY MR. MAHON:

Q Mr. Barrish, you understand it is the function of the jury to weigh the testimony of all of the witnesses who testify?

A Yes, sir, I do, sir.

Q And in weighing the testimony of any witness, you have a right to believe or disbelieve all or any part of any of the testimony of a witness. You understand that?

A Yes, sir.

Q Now, if a police officer testified or any law-enforcing officer testified, would you weigh and measure his testimony with the same yardstick that you use on the testimony of any lay witness?

A I would --

Q Would you -- go ahead.

A I understand what you mean. I would have to hear the other side. I couldn't give a policeman preference over the layman, but he should -- he would know more information about any information whatsoever in a case like this.

Q Well, if a policeman testified and you felt that you believed him, you would believe him?

A Yes, sir.

Q If you felt that he wasn't telling the truth, you wouldn't believe him?

A That's right, sir.

Q And wouldn't you apply that same test to any layman?

A That's right.

Q So you would apply the same test to the testimony --

A That's right.

Q -- of a policeman as you would to a layman?

A Yes, sir.

MR. GARMONE: I renew my application
to challenge.

THE COURT: It will be overruled.
You may take your exception.

You may question him further.

BY MR. GARMONE:

Q Mr. Mahone just asked you some questions about the right that
you have if you are chosen as a juror to either believe all,
believe in part, disbelieve all or disbelieve in part the
testimony that would be submitted for your consideration
by a witness, and your answer was that you would have that
right, and the Court would so instruct you.

A That's right, sir.

Q Then he asked you questions about police officers.

A Yes, sir.

Q Now, I get back to the simple fundamental question that I
have put to you, and I will put it now for the third time:
You are still of the opinion, are you not, Mr. Barrish, that
you would have to give greater weight to the testimony of a
police officer than you would a layman because of the fact
that he is a police officer; isn't that a fact?

A That's right, sir. ✓

MR. GARMONE: I renew my motion again
that he be challenged for cause.

MR. MAHON:
question, your Honor?

May I ask him another

THE COURT: Just one moment.
Why do you say that when, on the other hand, a moment ago you said that you would measure the testimony of a police officer like you do the testimony of any layman, you believe him if you are confident he is telling the truth and you disbelieve him if you are confident or convinced he is not telling the truth? Will you tell us just how you differentiate?

MR. GARMONE: If the Court please,
may I just say something on that question?

THE COURT: Let's have him clear up
what is confusing the Court.

MR. GARMONE: I don't think that there is any confusion here, for this reason: That the questions that I have put to Mr. Barrish were in simple form and to the exact point. I made that inquiry because the conflict that will transpire in this overall factual picture that will be presented when and if a jury is sworn to try Sam Sheppard fairly and impartially will be between the testimony of laymen and police officers.

Now, getting back to the original subject matter,

the Court permitted John Mahon to interrogate Mr. Barrish on the points that I had developed. However, the record will disclose that the questions that were put to Mr. Barrish were not as direct as the question that I put to him, and the record will disclose that the interrogation that your Honor has just made now that you have not yet received an answer on is not as direct and simple as the questions that I put to him and the answers that I exacted from him.

THE COURT: No. Mr. Garmone, this gentleman has said that he would give more credence to the testimony of a police officer than he would some other layman. On the other hand, he has definitely said that he would weigh the testimony of a police officer, he would believe it if he was convinced it was entitled to belief and disbelieve it if he was convinced it was not entitled to be believed. Now, those two positions are wholly inconsistent. ✓

Now, I am asking him just how do you reconcile those two statements that you have made? Will you do that?

PROSP. JUROR BARRISH: Yes, sir.

THE COURT: All right.

PROSP. JUROR BARRISH: A policeman has a steady job with, you know, with the law, and he would be

informed on more information than a layman.

THE COURT: That only goes to the quantity of his testimony.

PROSP. JUROR BARRISH: Yes. Now a layman, you can't say anything against him until he has come through with whatever he has to say, and I would have more -- or, I would say I --

MR. GARMONE: More what?

PROSP. JUROR BARRISH: I didn't finish yet.

THE COURT: He is trying to get the word.

PROSP. JUROR BARRISH: I wouldn't favor one over the other if -- I wouldn't favor one over the other if the layman had just as much evidence as your policeman, but if --

THE COURT: Are you talking about quantity of evidence or quality of evidence?

PROSP. JUROR BARRISH: Quantity or quality.

THE COURT: All right. Now, Mr. Mahon, you had a question.

MR. GARMONE: May I make one observation before Mr. Mahon asks a question of this juror?

THE COURT: All right.

MR. GARMONE: The Court said there is a conflict between the answer that he gave to your Honor

and the answer that he gave to me in response to my question. I call the Court's attention to the fact that the question in subject here has been put to this young man three times. Now, there is no conflict between the answer he gave me and the answer he gave the Court or the answer he gave John Mahon.

MR. MAHON: Yes, there is.

MR. GARMONE: He rightfully stated that he would believe, disbelieve in part or entirely the testimony of a police officer. However, how can we be assured, on the answers that he has given here this afternoon, that should he decide to believe the testimony of one or two or three or four police officers that testify, that he will not, as he has stated, give their testimony greater weight and credence than he would that of an ordinary layman?

THE COURT: Well, I think he has cleared it now, Mr. Garmone. He stated a moment ago that because they have the means of knowledge -- and when this Court comes to charge a jury in this case, as he does in all cases, he will state to the jury that they do have a right to consider the opportunity which a witness had to observe and to know the things that are testified to. Now, that is exactly, as I understand it, the basis of his answer. I get it from his lips,

not something that I have conjured up.

MR. GARMONE: Well, if your Honor please, your Honor knows me well enough that I have never made an effort of bantering back and forth with the Court. However, at this time is the fair medium of determining whether this young man can qualify as a juror in this case now or when he has already been accepted and sworn to take facts and depend on the charge that his honor will give him on various subject matters that are parallel to the issues?

THE COURT: Well, I don't want to wait until the charge, but that's his own basis, not mine.

MR. GARMONE: Well, your Honor says that you will clear that up in your charge.

THE COURT: No. No, I didn't say that, Mr. Garmone. The Court said that he would charge that, as he does in all these cases, and not because it took -- not for the purpose of clearing him up but on the general principle which the Court does charge. That's the basis of his reason, according to his own statement, without anybody suggesting that at all.

Now, let's let Mr. Mahon put his question to him.

MR. GARMONE: Go ahead.

THE COURT: You have been waiting for 10 or 15 minutes to put your question. What do you have, sir?

MR. MAHON: I haven't any question now, your Honor.

THE COURT: All right. Go ahead.

BY MR. GARMONE:

Q I ask you again, Mr. Barrish, you are still of the opinion, are you not, that you will give greater weight to the testimony of a police officer than you will a layman, because of the fact that he is a police officer? You are still of that opinion, are you not?

A I'm not going to answer fully this time that I would give a policeman --

Q No. I asked you a simple question.

A You mean yes or no?

Q I would like a yes or no answer, please.

A I can't give you a direct yes or no on that.

Q You can't give me a direct yes or no?

A That's right.

Q Is there something bothering you, Mr. Barrish?

A Well, yes, sir. I can't --

Q I mean, not regarding this particular question but --

A You mean the answers from --

Q The general atmosphere?

A No.

Q Nothing at all?

A No.

MR. GARMONE: Will you read my last
question to him?

(Question was read by the Reporter as follows:

"I ask you again, Mr. Barrish, you are still
of the opinion, are you not, that you will give
greater weight to the testimony of a police officer
than you will a layman because of the fact that he
is a police officer? You are still of that opinion,
are you not?")

Q May I have an answer to that question, please? Mr. Sheppard
is entitled to an answer to that question, if not me.

MR. MAHON: I think he did answer
that question.

MR. GARMONE: No, he didn't. He
answered it three times for me, and he said yes.

MR. MAHON: I mean this last question.

MR. GARMONE: No, he didn't.

MR. MAHON: Read his answer.

(Record read by the Reporter.)

Q Can we have a yes or no answer?

A I can't give you a yes or no answer. ✓

MR. GARMONE: I again renew and ask

that the juror be challenged for cause. ✓

THE COURT: It will be overruled.

MR. CORRIGAN: If the Court please, in this case we are going to have a conflict between --

THE COURT: Gentlemen, I think you better have one counsel try one matter here. We are getting confused.

MR. CORRIGAN: I am not going to ask any questions.

THE COURT: I don't want to be finicky about it, but --

MR. CORRIGAN: We are going to have a direct conflict around this table between officers and laymen. Why should we have a juror in this case -- that has an opinion that he will accept an opinion of an officer before he will a layman? Why do we have to do that? This man is on trial for his life.

THE COURT: Well, I know, but this gentleman has now, of his notion, explained that the basis of his somewhat -- whatever you call the greater belief in the testimony of a police officer -- is based on his knowledge and observation of the things he testified to.

PROSE. JUROR BARRISH: That's right, sir.

THE COURT: Now, that is a proper

basis, if it is properly applied. Could you follow the Court's instructions religiously as to how you are to weigh the testimony, whether it be that of a police officer or someone else, can you follow the instructions of the Court?

PROSP. JUROR BARRISH: Yes, sir.

BY MR. GARMONE:

Q Now, you said that your only contact with Dr. Gerber, the coroner --

A I beg your pardon?

Q You said that your only contact with Dr. Gerber was that you had seen his name on the ballot and voted for him?

A That's right. That's the only time I've --

Q Well, should Dr. Gerber offer himself as a witness in this case for the State, would you be more likely to give Dr. Gerber's testimony greater weight and consideration than you would some doctor that is not associated with the County Coroner's office?

A No, sir. I would have to see what evidence this other doctor would bring forth to this trial. I would have to see both sides, as to which one I would turn my thoughts to.

Q Now, on the question of fact and law, there was some questions asked of you by Mr. Mahon. It is the law of our state, and you will be so charged and instructed by Judge Blythin, that the jury are the sole judges of the facts, that no one can

trespass on that responsibility, no one can take away from you any authority that you have as a juror in weighing carefully and with great consideration all the facts in this case. You know, before I walked into this courtroom today, I had a funny experience with someone unusual. Making an effort to get in here, there was some people discussing the matter --

MR. MAHON: I object to this, if
the Court please.

MR. GARMONE: I think this is proper.

MR. MAHON: If it is a question --

THE COURT: It is not proper, Mr.
Garmone.

MR. GARMONE: How do we know it isn't?
I haven't had an opportunity to finish.

THE COURT: What experience you had
is of no importance here.

Q Well, Mr. Barrish, when we talk about facts, we talk about that testimony that will be offered to you by persons who will testify from the same chair that you are seated in, under oath, and the Court will tell you that you, as a juror, are duty bound to consider no facts other than those facts that you hear in this courtroom.

A That's right.

Q Can you follow those instructions?

A I could, sir.

Q Now, in conjunction with that thought and your answer, getting back to my early inquiry where you had made statements or where you had stated that after you were apprized that you were going to be called as a juror in this matter, that you then continued to read with more frequency the newspapers, to further acquaint yourself with what was going on about the case of the State of Ohio versus Sam Sheppard -- do you remember that statement?

A Yes, sir.

Q Well, now, are you able to remove from, should I say, the subconscious mind that we all have those statements that you may have placed back there and not weave them into anything that you hear in this courtroom? Are you able to do that?

A Yes, sir.

Q Are you sure?

A Positive.

Q You will be instructed by his Honor that you are not to discuss this matter with anyone. That is sometimes hard to do because we are all human and some of us like to talk a little more than others. Do you feel that you can avoid any curiosity that may come your way at home?

A Absolutely, sir. My wife and I are the only ones living at our present address, and I come in contact with very few friends due to the fact that I am working these odd hours.

Q Well, supposing that the few friends that you do come in contact with, do you think you can avoid discussing anything that you hear in this courtroom about the case with them?

A I did it up until now on people asking, you know, well, "You are going on the jury," and so forth.

Q Did somebody ask you those questions?

A Well, like I said, a couple of fellows came into work and --

Q What did they say about it?

A They said, "Oh, I saw your name was in the paper."

And I told them, "Yes."

And that was all. They just walked right by me.

Q Didn't say anything about Sam Sheppard or about the case?

A No, nothing at all. I just walked right by them, because I was on my way home.

Q And you think that if you are chosen as a juror, you will take just those facts that you hear in this courtroom?

A What facts I see before me.

Q In this courtroom?

A That's right, sir.

Q Presented to you?

A Presented to me.

Q Now, under our system it is necessary that all 12 jurors agree in the verdict, and the Court will so instruct you.

And the Court will instruct you that of the 12 jurors, there shall be one designated as foreman, whether it be a he or a

she, but that all 12 people have the same equal right in their discussion and deliberation after the case is given to you. Would you be of the opinion, because one of the 12 may be chosen a foreman of that jury, that his authority should be accepted more than yours probably, if you are not the foreman of the jury?

A No, sir.

Q The Court will instruct you in that direction that, as I said, it would be necessary for all 12 of you to agree before you can arrive at a verdict. Now, after hearing all the facts, after accepting the law that his Honor will instruct you on that he feels should be woven into these facts that you hear in this courtroom, and you come to that belief that the State of Ohio has failed to prove beyond a reasonable doubt the guilt of the defendant, Sam Sheppard, would there be any question in your mind about voting that way?

A Would you repeat that just once, please?

Q After you listen to all the facts that will be submitted for your consideration, if you are chosen as a juror, and you accept the law that his Honor, Judge Blythin, will give you that he feels should be applied to the facts which you have listened to from witnesses who testify in this courtroom, and no place else, after you have that entire factual picture, including facts and the law, and you come to that belief that the State of Ohio has failed beyond a reasonable doubt to

satisfy you of the guilt of Sam Sheppard, would you hesitate in voting for a verdict of not guilty?

A I wouldn't hesitate.

Q Now, under the same circumstances, having heard all the facts and the law, and you feel in your mind that you, as an individual, that the State has failed to prove beyond a reasonable doubt the guilt of Sam Sheppard, and if you are instructed by his Honor, Judge Blythin, that it is your privilege as a juror, after listening to your fellow jurors regarding what their thoughts are on the same subject matter, that you still, although you may be in the minority, have a right to exercise, if you haven't been satisfied beyond a reasonable doubt, your individual vote and vote for the acquittal of Sam Sheppard, would you so do?

A Yes, sir.

Q You wouldn't be swayed by the minority --

A I wouldn't be swayed by anybody on it.

Q -- or majority?

A By anybody on it.

Q Now, the Court is the sole judge of the law. You are the sole judge of the facts, and the Court is the sole judge of the law. You know, in our everyday life we have different ideas of what should be done and what shouldn't be done. As you have noticed here this afternoon, I have entered into some controversies with his Honor, Judge Blythin, because I

thought that I was right and Judge Blythin told me that I wasn't right. So I had to abide by his ruling at the present time.

Now, will you take the law that Judge Blythin gives you, and only the law that he gives you, and use that in your application to the facts that you hear?

A Yes, sir.

Q You can dismiss from your mind any ideas or notions of what you may think the law is or the law ought to be, regardless of whether you think Judge Blythin is right or wrong, will you follow his instructions?

A Yes, sir.

Q No question about that?

A No question about it.

Q Now, Mr. Barrish, I have some names here that I would like to read off to you, and if they mean anything to you, why, you just stop me at that point. Do you know a Gladys Henricks that lives at 17301 Riverway Drive, Lakewood?

A No, sir.

Q An Arthur R. Gutschmidt that lives at 3245 West 43rd Street?

A No, sir.

Q Do you know a Belva Andrews at 10801 Chippewa Road, Brecksville?

A No, sir.

Q Mrs. Catherine Carey, 1915 West 52nd Street?

A No, sir.

Q Ester M. Bieger, 1455 Lander Road, Mayfield Heights?

A No, sir.

Q Frances Schumm, 1321 Giddings Road?

A No, sir.

Q Do you know a John M. Martin who lives on Galion Avenue?

A What was that name?

Q John M. Martin.

A I know a John Martin who works for Republic Steel. Now, I don't know where he lives.

Q Well, if I give you the address of 1621 Galion Avenue, would that strike any thought in your mind?

A No.

Q Is it possible that this may be the Martin that works with you?

A It could be the man that works on the first shift in the Shipping Department. I wouldn't know if it would be. I wouldn't know if it was the same man or not, because I've never been over to his house. I don't even know where he lives.

Q Do you know a Catherine Sharkey, 11023 Royalton Road, Route 1, North Royalton?

A No, sir.

Q John Zippay, 3041 East 153rd Street?

A No, sir.

Q John H. Royal, 2011 West 111th Street?

A No, sir.

Q Kenneth Moughtin, 859 Creighton Road, Cleveland Heights?

A No, sir.

Q Mrs. Lucille Murphy, 9801 Parmalee Avenue?

A No, sir.

Q Do you know a B. R. Winsteon, Bertram R. Winston?

A No, sir.

Q Mr. Barrish, one or two more questions. Supposing that there is submitted for your consideration testimony that Dr. Sheppard had an affair with some other women, would that fact in and of itself, without any other proof necessary to prove the elements of first degree murder, be sufficient for you to --

A No, sir.

MR. MAHON:

Objection. Wait a minute.

Objection to that.

THE COURT:

Objection sustained.

Q Would the fact that there is introduced here testimony that Dr. Sheppard had affairs with other women cause you to become prejudiced or biased in any way toward him?

MR. MAHON:

Objection, now. Wait a minute.

MR. GARMONE:

Oh, I think it is a proper question.

THE COURT: Were you through with the question?

MR. GARMONE: Yes.

THE COURT: The objection will be sustained. ✓

MR. GARMONE: May I --

THE COURT: Sustained. ✓

MR. GARMONE: I am not permitted to ask that question?

THE COURT: We are not going into the merits of what all the testimony would be.

MR. CORRIGAN: We certainly would have a right to know that, because that is something that people have very definite ideas on, both ways. You know that.

THE COURT: I know, but there will be a million and one other things, too, on both sides, and we can't go into all of these now.

MR. CORRIGAN: The sex angle is in this case, you know, and we have a right to go into that. You know that so many people hate people that have that idea. Would you want them on your jury if you were on trial? ✓

THE COURT: That question is not proper here. ✓

BY MR. GARMONE:

Q If it should develop by testimony submitted to you on behalf of the State of Ohio that Dr. Sam Sheppard was alive in his home, and his wife, Marilyn Sheppard, was dead, without any supporting testimony proving the necessary elements required by the State of Ohio relating to first degree murder, be sufficient for you to decide that he was guilty of the charge alleged in the indictment?

MR. MAHON: Objection

THE COURT: Objection sustained.

Q Now, Mr. Barrish, you have been asked a great many questions, I have spent considerable time with you, John Mahon has asked many questions of you, the Court has participated in your examination. Maybe we haven't, with all our questions, been able to bring out some thought that you may have that you, as an individual, feel would disqualify you in sitting as a juror in this matter. So I ask you now to search your conscience very thoroughly, because as I said at the outset of my examination, I have a great responsibility, Mr. Corrigan has a great responsibility, Mr. Petersilge and Mr. Corrigan Jr., and the responsibility doesn't stop on that side of the table, John Mahon and Mr. Danaceau, so we can't leave anything undone.

Now, our responsibility is great, but your responsibility is even greater because, Mr. Barrish, if you are chosen as a

juror in this matter, you will be called upon to pass on the guilt or innocence of a fellow citizen, and more than that, in this case you will be called upon as a juror, if you are chosen, to pass on whether or not Dr. Sam Sheppard shall continue to live a natural life.

So accepting those thoughts and searching your conscience very thoroughly, do you feel at this moment that you can be fair and impartial to that young man?

A I certainly do, sir.

Q That you will carry into this jury box no prejudices?

A No prejudice whatsoever.

Q No preconceived ideas?

A No preconceived ideas of anything.

Q No biases of any kind?

A No bias of any kind.

Q And you feel that you can give him a fair and impartial trial?

A Absolutely, absolutely. Whatever is presented before the Court here, that's what I'm going to base my opinion on.

Q And you are sincere in that statement?

A That's right, sir.

MR. GARMONE: Thank you. Pass for
cause. ✓

THE COURT: You may take that seat
No. 1 over there.

Let's have quiet just a moment, please.

The Court will now be adjourned until 9:15 tomorrow morning, and will you, Mr. Barrish, in the meantime be good enough to observe the caution which the Court has expressed to you, do not discuss this case with anyone, not even with your fellow prospective jurors.

Court will now be adjourned until 9:15 tomorrow morning.

(Thereupon an adjournment was taken until Tuesday, October 19, 1954, at 9:15 o'clock a.m., at which time the following proceedings were had:)