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Monday Morning Session, November 29, 1954, 9:15 o'clock a.m.

MR. DANACEAU: Your Honor, we would like to request to put Dr. Hexter on out of order.

Thereupon, the State, further to maintain the issues on its part to be maintained, called as a witness DR. RICHARD HEXTER, who, being first duly sworn, was examined and testified as follows:

THE COURT: The Doctor just informs the Court that he has never appeared in Court before.

It is very important that the last lady on the far corner there hear everything that you say, Doctor.

DIRECT EXAMINATION OF DR. RICHARD HEXTER

By Mr. Danaceau:

Q Doctor, may we have your name?

A Dr. Richard Hexter.

Q And where do you live, Doctor?

A I live at 28214 Lincoln Road in Bay Village.

Q In Bay Village?

A Yes, sir.

Q You say you have never been in the court room before?

A No, sir. This is my first experience, and I am just a

little bit uneasy.

Q How long have you practiced medicine in Greater Cleveland area?

A Roughly, about 17 years.

Q Where did you get your schooling?

A I graduated from the University of Louisville Medical School in Kentucky.

Q In what year?

A 1934.

Q And where did you intern?

A I had a year, possibly a year and a half's training at City Hospital, Cleveland, the Pathology Department. I spent two years at the Lutheran Hospital here at Cleveland, and I spent a year at City Hospital at the University of Louisville in Kentucky.

Can you hear me back there?

MR. DANACEAU:

Can you hear him

all right?

THE WITNESS:

Thank you.

Q Have you finished answering that question?

A Yes, sir.

Q And are you a member of the staffs of any hospitals in Greater Cleveland area?

A Yes, sir, I am.

Q On which hospitals?

A I am on the staff at Lutheran Hospital, the staff of St. John's, the Lakewood Hospital and Berea Community Hospital.

Q How long have you been on the staff of Lutheran Hospital?

A Since 1937.

Q Continuously to the present day?

A Yes, sir.

Q And how long have you been on the staff of St. John's Hospital?

A About 1939, I believe.

Q To the present day?

A To the present day.

Q And how long have you been on the staff of Lakewood Hospital?

A About 1937 or 1938.

Q To this very day?

A To this present day, yes, sir.

Q And how about the Berea Hospital?

A Berea Hospital, since about 1944 or 1945.

Q Doctor, did you on July 4th receive a call to examine Dr. Sam Sheppard?

A Yes, sir, I did.

Q You had known Dr. Sam Sheppard before then?

A Yes, sir.

Q And from whom did you receive the call?

A I received the first call from Chief Eaton of Bay Village.

Q And you say the first call. Was there a second call?

A Yes, sir, there was a second call.

Q From whom?

A I refused to go out the first time to see Dr. Sheppard.  
The second time Dr. -- or, forgive me -- the Chief called  
me back and then also Dr. Gerber gave the official per-  
mission to see Sam.

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Q

Did you then go to see him?

A

Yes, sir.

Q

And what time of the day was it on July the 4th that you saw him?

A

I didn't note the exact time. I think it was approximately about a quarter of 3, or thereabouts, that I arrived at the hospital.

Q

In the afternoon?

A

In the afternoon.

Q

At what hospital?

A

Bay View Hospital.

Q

That is in the Village of Bay?

A

I beg your pardon?

Q

In the Village of Bay?

A

Yes, sir.

Q

And in what room did you see Dr. Sam Sheppard?

A

Gee, I --

Q

You don't remember?

A

I don't remember the room. It was down in the new wing that the hospital built, in one of the private rooms in the ground floor.

Q

Now, you got to see him?

A

Yes, sir.

Q

Who else was in the room at the time?

A Dr. Steve Sheppard and an intern.

Q Do you know the name of the intern?

A No, sir, I don't.

2 Q By an intern, you mean an intern of Bay View Hospital?

A Well, sir, yes. We use the word intern loosely. He may have been a resident or an assistant resident, I don't know. By intern I mean one of the men in white.

Q Did you proceed to examine Dr. Sam Sheppard?

A Yes, sir.

Q Did you have any conversation with Dr. Stephen Sheppard in Dr. Sam Sheppard's presence?

A No, sir. Well, I'll take that back. Just very non-committal questions and answers, nothing to -- that I recall at the present time.

Q Was Dr. Stephen Sheppard in the room while you were examining Dr. Sam Sheppard?

A Yes, sir.

Q Now, how long did it take you to examine Dr. Sam Sheppard?

A I think approximately about 45 minutes.

Q Will you tell us first what his appearance, general appearance was when you examined him?

A I walked in the room and Sam lying in bed quietly. I walked up to him and shook hands with him, and offered my condolences as to what had happened.

He was conscious, lying quietly in bed, and alert

as to what I was saying and what I was doing.

Q Did you take his pulse?

A Yes, sir.

Q What was it, do you recall?

A I have here a report of the physical examination, if I may use --

Q That is your own report?

A Yes, sir. If I may use it to refresh my memory.

Q Yes, sir.

A The physical examination on 7-4-54 -- and the time I wrote this up was 4 p.m. -- the pulse was 78.

Q Is that normal?

A Yes, sir.

Q What was his respiration?

A His respirations: Respirations are 14 per minute.

Q Is that normal?

A Yes, sir.

Q How about his blood pressure?

A His blood pressure: 134 over 70.

MR. PARRINO: I didn't get that.

THE WITNESS: His blood pressure  
was 134 over 70.

Q Is that normal?

A Yes, sir.

Q Did you talk to him? Did you talk to Dr. Sam Sheppard?

A Yes, sir, I did.

Q And he answered your questions and responded to you?

A Yes, sir.

Q In a normal way?

A Yes, sir.

Q What did you observe with respect to his skin?

A His skin was clear and tanned.

Q What did you observe with respect to his head?

A The head was normal in contour and the skull feels normal to palpation.

Q How about his ears?

A The ears were normal in shape. The external canals are normal. The drums are intact. No blood is noted in the ear canals.

Q What did you observe with respect to eyes?

A The eyes: The pupils are equal and regular. They react to light and accommodation. There is no nystagmus. The conjunctiva and sclera are normal.

Q And with respect to his nose?

A The nose was normal in size and shape, and there is no evidence of contusion or abrasions. The septum was in the midline.

Q And as to his face?

A The face: The left side of the face was normal. There is marked edema over the right zygoma, that is the cheek



bone, with tenderness on pressure. The lower and upper right eyelid is edematous with a supra and infra-orbital ecchymosis. That, of course, means a black eye.

There is edema or a swelling and redness over the right parieto-temporal region. That meant over the right forehead in this area. This area measures approximately six by six centimeters in size. This area was painful to palpation.

The skull table -- and that again, is the outside of the skull -- does not feel depressed to palpation. No abrasions are noted.

Q How about his neck?

A Neck: There is a tight felt neck pad that is removed. The patient moves his head from side to side with some difficulty. No contusions or abrasions of the throat are noted. The back of the neck is thick. No edema is noted.

He alleges pain on palpation of the occipital region. That, of course, by that I mean the back in the base of the skull. There are no abrasions or contusions of the back of the neck.

Q You say you removed this neck pad?

A Yes, sir.

Q Had you some talk there with Dr. Steve in respect to the neck?

A Yes, I did.

Q What was that?

A Before I went <sup>in</sup> to examine Dr. Steve -- or Dr. Sam, Dr. Steve told me that there were some bluish marks around the neck, and that Sam had some swelling of the back of his neck.

At the time of the examination, with Sam lying flat in bed with this neck pad on, I couldn't be sure of what was behind the neck pad. Therefore, I asked Sam if he would like the neck pad removed. He said yes.

I didn't want to do anything to injure Sam if he had any serious injuries by letting him go through too rigorous an examination, so Dr. Steve asked Sam if he wanted the neck pad removed, Sam said yes, and that pad was then removed, and I was able to visualize the side of the neck rather carefully.

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- Q Did you see any bluish marks?
- A No, sir.
- Q Did you see any swelling?
- A No, I didn't see any swelling.
- Q Did you feel any swelling?
- A I asked Sam again if he could sit up, if he was able to sit up, and he said yes. With the help of Steve and with the help of the intern, Steve supporting the back of Sam's neck, he was raised up in a sitting position on the bed. In that way I was able to palpate and look at the back of the neck. I didn't notice any contusions or abrasions on the back of the neck, and I didn't notice any edema of the back of the neck, or swelling.
- Q You did not notice any swelling?
- A No, sir. I didn't feel any swelling.
- Q Now, in this same conversation that you had with Dr. Stephen there, do you recall anything said about X-rays?
- A Yes, sir.
- Q What was that?
- A Dr. Steve told me that X-rays had been taken of Sam, and he asked me if I wanted to see the X-rays. I said, no, sir, that I didn't, because I didn't know enough about the technical area of the back of that neck for me to be able to make any diagnoses as to whether there were any gross minute fractures. I thought that should be left more to

an expert. I felt that I --

Q Do you recall anything further that Dr. Stephen said with respect to the X-rays?

A He told me that there were fractures of the vertebra.

Q That there were or were not?

A That there was a fracture of the vertebra.

Q Now, did you examine the mouth?

A Yes, sir.

Q And did you have a full examination of the mouth?

A Yes, sir, I did. The teeth are intact. There are several small abrasions on the inside of the mouth to the right at the level of the teeth.

Q Anything else with respect to the mouth?

A That is all I can tell you, sir.

Q Now, how about the chest?

A The chest was normal in contour. The respirations are 14 per minute. The percussion note is normal. There are no rales. He alleges pain on palpation at the level of the eighth and ninth ribs on the right at the sternal junction. No fractures are noted by palpation. No contusions or abrasions are noted.

Q Now, how about the heart?

A The heart: The rhythm was regular. There is no enlargement of the heart and no murmurs were heard.

Q Did you examine or observe his abdomen?

2844

Hexter says  
7-4  
no prob.  
w/ triceps  
& biceps  
reflexes.

- A The abdomen was normal in appearance. The liver, kidneys, spleen and bladder are not palpable. He alleges pain on palpation in the right upper quadrant, and by that I mean just above the liver and below the ribs on the right side.
- Q Now, did you examine -- what do you call the arms and legs -- the extremities?
- A The extremities: There are no abnormalities. The function is normal and equal.
- Q Now, about his reflexes, did you go into that?
- A Yes, sir. Reflexes: The Babinsky was negative. The cremasteric -- and that is the scrotal reflex in the male -- was absent on both sides. The left abdominal reflex was absent. The biceps in both forearms was present and active, the triceps in back of the elbows was present and active on both sides. The ankle clonus was negative.
- Q Now, will you list what injuries you observed there during your examination of Dr. Sam Sheppard that afternoon?
- A Well, I have here what we term an impression or working diagnosis, when we first admit a patient to the hospital or see a patient for the first time in the office. My impression, of course, is not my final diagnosis. After all, you must remember that I just saw Sam for the first time and I didn't follow him through. My impression at that time was --

MR. GARMONE:

Then we will

object, if the Court please, to what his impression is.

THE COURT: We will find out.

Are your impressions based upon what you saw and your findings at that time by examination?

THE WITNESS: My impressions are what I saw at the examination, and that was my tentative diagnosis.

THE COURT: All right. He may answer.

Q Go ahead, sir.

A Do you want me to change it, then? My tentative diagnosis of Dr. Sheppard was abrasions of the mouth on the right side, and infra and supra-orbital ecchymosis on the right, edema of the face and forehead on the right, injury to the right rib cage; the absence of cremasteric reflex and the absence of the left abdominal reflex.

Q Have you made any further diagnosis?

A No, sir. Then I put down what I thought should be ruled out in my tentative diagnosis.

Q And what is that?

A I ruled out on Sam as to whether he had a basilar skull fracture, whether he had a fracture of the zygoma, or the cheekbone, on the right side; whether he had a fracture of the parietal region and whether Sam had fractures of the

eighth and ninth ribs on the right side.

Q And, Doctor, in making an examination of a patient, are there, in general, two types of diagnoses, one subjective and the other objective?

A Yes, sir.

Q And will you explain to the jury the difference between those two terms?

A Subjective is what the patient tells you in his history as to what he feels is wrong with him, what pains or symptoms he has. Objective is what the doctor finds on actual physical examination, both by sight, by palpation, by X-rays and by various chemical tests.

Q In other words, the objective would be on the basis of what the doctor himself knows?

A What he finds.

Q Or what he finds?

A Yes, sir.

Q And the subjective would depend upon what the patient tells him?

A Yes, sir.

Q Now, you noted the absence of certain reflexes. May we have those again, please?

A He had an absence of the cremasteric reflex on both sides, he had the absence of the left abdominal reflex.

Q Now, what does that indicate, what possibilities does that



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lack of  
reflexes  
no big  
deal.

indicate?

A

Well, it doesn't indicate much to me, sir. First of all, the cremasteric reflex absent on both sides doesn't tell me much of anything on any patient, because we know by experience and through literature that approximately 11 per cent of normal or so-called normal individuals, males, do not have the cremasteric reflex present, and, of course, it doesn't mean anything to us.

If I may explain to the jury -- I don't want to confuse you -- the cremasteric reflex in the male -- forgive me -- is the reflex that is elicited when you stroke the inner thigh of a patient just below the scrotum, and on the downward stroke either one or the other testicle suddenly rises up towards the abdomen. If you stroke the left side, on the same side it will suddenly go towards the abdomen, and the same way on the opposite side. And the absence of that reflex, of course, means that the testicle stays in one position, it doesn't move, or the scrotum doesn't contract.

And the left abdominal reflex was absent in Sam. That, again, by itself doesn't mean anything to the examining physician for the simple reason that the absence of a single reflex, to me, is normal, or to any neurologist, is normal. To denote any injury we must have other signs present to tie in the absence of a reflex, to denote injury either to the -- injury or tumors or lesions of the spinal cord or to

the brain.

Q If there was a significant injury to the spinal cord, for example, what other symptoms would develop in a patient?

MR. CORRIGAN: Object.

THE COURT: Let him answer.

A If there was an injury -- will you repeat that again, sir?

Q If there was a significant injury to the spinal cord, for example, what other symptoms would appear in a patient?

A That, sir, would depend upon where the level of the injury or the lesion or growth was present. The other things present would, of course, mean that the patient would have to show sensory changes, and by sensory changes I mean complaining of loss of sensation, either by touch or feel, or loss of sensation to heat or cold. The patient should show loss of muscle function, motor function, paralysis, and things of that sort.

Q How about vomiting?

A Vomiting, no.

Q That is not one of the symptoms, I take it? I am not a doctor.

A A spinal cord reflex from vomiting, no, sir, not from the spinal cord.

Q From your physical examination of Dr. Sam Sheppard, were you of the opinion, sir, that he had a spinal cord injury, significant spinal cord injury?

A You must remember, Mr. Danaceau, that I only saw Sam once and --

Q That's for 45 minutes?

A 45 minutes. Sam only showed the absence of these two reflexes. The arms and legs functioned normally, there wasn't any weakness evident on the examination, as far as I could determine. Sam didn't show any paralysis of his muscles, either spastic or flaccid paralysis. Sam didn't show any incontinence of urine or of his bowels.

Q By incontinence, you mean the ability to retain?

A Retain the waste products, yes, sir. And Sam didn't show any other abnormal reflexes, such as the Babinsky or the ankle clonus, and I just couldn't make a diagnosis of spinal cord injury at that time.

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Q Doctor, did you observe any abrasions on his hands?

A No, sir, I didn't.

Q On his knuckles?

A No, sir.

Q On his arms?

A No, sir.

Q On his legs?

A No, sir.

MR. DAMACEAU: You may inquire.

CROSS EXAMINATION OF DR. RICHARD HEXTER

By Mr. Corrigan:

Q Will you let me see what you have been reading there,  
Doctor?

A I didn't hear you, Mr. Corrigan.

Q Will you let me see what you have been reading?

(Witness does as requested.)

Q Dr. Hexter, you have testified before, haven't you?

A I have testified -- not in a court, that I remember, sir.

Q Where have you testified before?

A I have testified for the -- I am the Medical Examiner  
for the State of Ohio of the Industrial Commission, and I  
have testified in two industrial accident cases.

Q And you have testified, then, before the Industrial  
Commission?

- A Yes, sir.
- Q And you also testified in this inquest that was held by Dr. Gerber?
- A Yes, sir.
- Q In a gymnasium before a great number of people, is that correct?
- A That's right.
- Q Do you know how to make a diagnosis of a spinal cord injury?
- A Do I --
- Q Do you know how to make the diagnosis of a spinal cord injury?
- A Yes, I believe I can, Mr. Corrigan.
- Q You believe you can?
- A I think -- I feel sure I can, Mr. Corrigan.
- Q Have you ever made one?
- A No, sir, I haven't.
- Q You have not. In all your years of experience you have never made a diagnosis of a spinal cord injury, have you?
- A That's right.
- Q You come into court here where a man is on trial for first degree murder --

MR. DANACEAU: We object. Wait a minute, Mr. Corrigan. You know that is wholly improper. We object to that kind of conduct.

THE COURT:

Objection sustained.

The jury will disregard that statement entirely.

MR. CORRIGAN:

That was a question.

I except to the instructions of the Court.

Q Now, you practice in Bay Village?

A Yes, I do.

Q That is where your office is?

A My office is at 117th and Detroit. 11621.

Q You had some controversy with the Sheppards, did you not, before you examined him?

A Oh, no, sir.

Q About their participation in the Civilian Defense out there?

A No, sir.

Q There was not?

2 A No, no controversy, Mr. Corrigan.

Q No controversy?

A No, sir. At least -- let me amend that by saying no controversy to my knowledge, unless you can refresh my memory.

Q All right. I won't try to refresh your memory. You had no difficulty with your memory on the matter of your examination of Sam Sheppard on the 4th of July, did you?

A No, sir.

Q Now, when did you get the call, what time?

- A On Sunday afternoon. I didn't look at the clock. I imagine it must have been about 2 o'clock, 2:15, somewhere in that area, that time, rather.
- Q And the picture that you have drawn for this jury this morning is the picture of a very normal man, isn't it, who should not have been in bed?
- A I didn't say a normal man.
- Q What?
- A I didn't say a normal man. I didn't draw a picture of a normal man, Mr. Corrigan.
- Q Well, you went over with the prosecutor and you said this was normal, that was normal, that was normal, and so forth. You emphasized --
- A That's absolutely correct, sir, except that this man had an injury to his face, he had an injury to his eye, he had an injury to his forehead, and that, sir, does not constitute normalcy.
- Q But most of the things that you told in your direct examination emphasized what was normal about it, didn't they?
- A Well, I was asked questions, sir, which I had to answer.
- Q Well, you talked to the prosecutor; you went over it with him before you testified, didn't you, sir?
- A Well, that is perfectly natural, sir.
- Q When did you go over your testimony with the prosecutor?
- A Yesterday afternoon. We talked about it very generally.



2854

Q Sunday afternoon?

A Yes, sir.

Q Where was that?

A At his home.

Q At his home?

A Yes, sir. At my instigation, not at the prosecutor's.

Q What time did you go to Mr. Danaceau's home Sunday afternoon?

A Sunday afternoon, I think I arrived there about five minutes after 2.

Q And you went over your testimony?

A I was there a very short time.

Q Now, then, Doctor, you got a call from Chief Eaton? You received a call from Chief Eaton?

A That's correct.

Q You, of course, knew that the murder had occurred in Sam Sheppard's house at that time?

A On Sunday afternoon -- that Sunday afternoon I was out in my front yard working --

Q No. I am just asking -- I don't want to know what you were doing.

Did you know before you went to the hospital that Marilyn Sheppard had been murdered?

A Yes, I did. I was apprised of such by Mrs. Jimmy Dudley.

Q By whom?

A By Mrs. Jimmy Dudley, the baseball announcer's wife.

Q And did you have a conversation with Chief Eaton before you went there?

A Over the telephone.

Q And did Chief Eaton tell you that the Cleveland police had accused Sam of the murder?

A Oh, no, sir. I didn't know anything about that. In fact, I didn't know anything about it until after I examined Sam Sheppard.

Q Now, then, you didn't go until you contacted Corner Gerber?

A Did I contact him?

Q Yes.

A I didn't contact Coroner Gerber. Dr. Gerber -- are you talking about Sunday afternoon, July the 4th?

Q I am talking about Sunday afternoon.

A Sunday afternoon --

Q Before you went to the hospital on Sunday afternoon.

A On Sunday afternoon, July the 4th, Mr. Corrigan, Chief Eaton called me, asked me to go down and examine Dr. Sam Sheppard.

Q Just answer my question.

A No, sir -- no, just a moment --

Q Now, wait a minute. Just answer my question.

MR. DANACEAU: Well, he is answering.

Let the doctor answer.

THE COURT: That is right. You

just listen to the question and answer his question, and let the rest go.

Q Did you contact Coroner Gerber on Sunday afternoon?

Yes or no.

A No, I didn't. Dr. Gerber contacted me.

Q And where did he contact you?

A Over the telephone.

Q And after you had this conversation with Dr. Gerber did you go to the hospital?

A Yes, sir.

Q Now, then, when you went to the hospital you were to make an examination of Dr. Sheppard, you knew that, didn't you?

A Yes, sir.

Q And when you make an examination of a man, and when you are sent to make an examination of a man, or, rather, when you go to make an examination of a man, you bring your medical case along with you, don't you?

A As a rule, except in hospitals we never take them in there. I never do.

Q Did you bring your medical case along with you on this occasion?

A I believe my medical bag was in my car, as it usually is.

Q Did you bring it into the hospital?

A No, sir. I never bring my bag to any hospital.

Q Just answer my question.

MR. CORRIGAN: I ask that be  
stricken, "I never bring it in."

MR. PARRINO: No, he said "I  
never bring it in any hospitals, sir."

THE COURT: The jury will dis-  
regard that answer.

Q You never bring it into any hospital?

A No, sir.

Q You don't bring it into St. John's or St. Lutheran's?

A No, sir.

Q Never bring it in?

A No, sir.

Q Well, when you went into the hospital you had no equipment  
whatsoever with you?

A That is absolutely correct.

Q When you went into the hospital who was the first man that  
you contacted?

A I believe the first man I saw was the intern, and the  
nurse at the desk.

Q You said a few moments ago that you had no conversation  
with Steve when you went into the hospital.

MR. DANACEAU: We object to that.

He didn't say that at all.

A I don't recall --

MR. DANACEAU: On the contrary.

He related certain conversation he did have.

MR. CORRIGAN: Will you make your  
objections --

MR. DANACEAU: That is exactly what  
we are doing.

THE COURT: Let the doctor say  
what the facts are.

A I did have a conversation with Steve Sheppard.

Q Who else did you have a conversation with?

A Well, I believe there was a policeman sitting at the door,  
there were several nurses, there was an intern, there was  
Dr. Steve Sheppard, there was Mrs. Sheppard, Sam's mother.  
I believe -- yes, I think Richard was there also, and, of  
course, whoever was walking up and down the corridors.  
In fact, I believe I saw some patient in one of the rooms  
who said hello to me.

Q What conversation did you have with anybody before you went  
into Sam's room? What direct information did you have  
with anybody before you went into Sam's room? What direct  
information did you have with anybody before you went into  
Sam's room as to the condition of Sam Sheppard?

A With Steve Sheppard.

Q And what conversation did you have with Steve Sheppard in  
regard to Sam's condition?

- A Steve told me what had happened to Sam as far as the injuries and his physical condition was concerned.
- Q Now, when you went down, did you ask to examine the chart that had been prepared in the admission of Sam Sheppard into that hospital?
- A Yes, I did.
- Q Did you examine it?
- A Very cursorily, sir.
- Q I don't understand that. Did you examine it?
- A I said very cursorily, sir.
- Q What does that mean, "very cursorily", sir?
- A By that I mean that I didn't want to be influenced by anything that was written on that chart. I wanted to use my own particular judgment as to what was wrong with the patient.
- Q In other words, you didn't trust the chart, is that what you want to say?
- MR. DANACEAU: Object to that.
- THE COURT: I think he has made clear what his position was. Objection will be sustained.
- Q Did you talk to the nurses that had taken care of Sam Sheppard?
- A Well, sir, that was four months ago. I may have talked to them very casually. I didn't talk to them particularly --

Q It was four months ago. Did you talk to any of the nurses that took care of Sam Sheppard to get information as a doctor? Answer it yes or no.

A I don't recall. I'd have to say no. I should say no to that.

Q Did you talk to any of the doctors that had taken care of Sam Sheppard?

A The only man I talked to was the intern who was present.

Q That was while he was in the room?

A While he was in the room.

Q Now, then, in making the examination you required a number of medical things to make that examination, did you not?

A Yes, sir.

Q What did you require?

A I asked for a tape measure; I asked for an otoscope; I asked for a tongue blade; I asked for a percussion hammer; blood pressure apparatus. The usual paraphernalia that we get in a hospital to examine a patient.

Q And those were all supplied to you by whom?

A Well, by the hospital, by the intern or the doctor or the nurse, whoever brings those things in.

Q Who were they supplied to you by?

A Well, by the intern.

Q That isn't the hospital. That is the intern.

MR. DANACEAU:

Well, we object to

this kind of pettifogging.

Q Well, let's be clear, Doctor, in what you have to say.

A I am trying to be clear, Mr. Corrigan.

Q You are trying to be fair --

MR. MAHON:

Trying to be clear.

A I am trying to be honest and fair, sir, believe me.

Q Yes. All right. Now, then, were you there -- you were there for a period of 45 minutes?

A Well, roughly, Mr. Corrigan. As I say, I didn't look at the time.

Q You didn't look at the time?

A No, sir.

Q During the time that you are in that room did you make a single note on any pad of paper in regard to what you found in that room?

A No, sir, I didn't. I never have with any patient.

Q Just a moment.

MR. CORRIGAN:

I ask the witness

be instructed to answer the questions and not be adding.

Q During the conference with Mr. Danaceau yesterday, did you receive any instructions how you should answer the questions?

A Mr. Danaceau told me to tell the truth, Mr. Corrigan, and nothing but the truth.

Q Now, then, while you were in the hospital did you make any



notations of what your observations were?

A My notations were made immediately after the examination.

Q Where?

A In a room upstairs. I believe it was the library, or the record room, or whatever that room in the hospital is. I don't know. Dr. Sam or Mr. Petersilge could tell me what that room is.

Q Was this report made in the hospital?

A That report was written down in the hospital.

Q This, as it appears now?

A Yes, sir.

Q Just this same report?

A Exactly, sir.

Q What?

A Yes, sir. Before I left the hospital it was written up.

Q And was this paper furnished you by the hospital, Bay View Hospital?

A I received three sheets from the hospital, sir. I ran out of paper, and I asked the telephone operator to get me some more to finish my report.

Q No. I mean this --

A This was furnished by the hospital, yes, sir.

Q This was furnished by the hospital and you made it upstairs.

Now, when you examined him he was in bed?

A Yes, sir.

Q Apparently quiet?

A Apparently quiet in bed.

Q He made no objections to you examining him?

4 A Sam was extremely cooperative, sir.

Q Now, what was the first thing that you examined, what part of his body?

A Well, offhand, I can't answer the first thing, sir. The only thing I can say, that we usually go through a certain set routine of examination, and approximately the first thing I may have examined can have been the head.

Q Did he complain to you of pain?

A Yes, sir. He said he had pain.

Q And where did he have pain?

A He said he had pain in his neck. He said he had pain in his jaw.

Q And did you elicit any evidence of pain in your examination?

A Yes, sir, I did. By palpation.

Q And where did you elicit the evidence of pain by palpation?

A I elicited the evidence of pain by palpation in the forehead on the right side, the cheek bone on the right side, and the occipital region in the back of the neck at the level of the first cervical vertebra.

Sam also complained of pain when I asked him to open up his mouth so I could examine the contents of the mouth.

Q I am not asking you, Doctor, about his complaint of pain, but I am asking you if you elicited evidence to your satisfaction that he was suffering pain. Did you?

A On palpation of the forehead, when I pressed with my fingers against the forehead Sam complained of pain.

I can't feel pain, Mr. Corrigan, with my fingers, neither can I see pain with my sight. I must rely upon what the patient tells me.

Q But you can observe --

A If a patient --

Q Wait a minute. You can observe when you palpate a certain part of an injury whether there is pain there, or whether the person is faking pain, can't you?

A We must give the patient the benefit of the doubt, Mr. Corrigan.

Q Oh, you will have a reflex action on the part of the patient. Did you get that?

A Not in the forehead you don't.

Q Did you get it in the back of the neck when you palpated it?

A No, sir.

Q You did not?

A No, sir.

Q So all you knew about it was what he told you about it?

A Yes, sir.

Q What?

A Yes, sir.

Q And you did not make any observations that there was pain there except what he told you?

A Except what Sam told me.

Q Now, describe what you found above the eye.

A I found a swelling -- what do you mean by "above the eye", Mr. Corrigan? Just where are you referring to?

Q I am referring to the space just above the eye in the frontal region.

A Are you talking about the forehead?

Q The forehead, yes.

A The forehead. That is this area here (indicating).

Q Yes.

MR. PARRINO:                      The right eye or  
the left eye?

A I found a swelling of the right side of the forehead, which, as I said before, measured approximately six by six centimeters in size. This was beyond the normal.

Q There was an evident injury there, then, wasn't there?

A There was evident injury, correct, sir. Evident injury, certainly.

Q And what did you find below the eye?

A There was again a swelling of the cheek bone below the eye, an evident injury.

Q There was an evident injury there, wasn't there?

A Yes, sir.

Q And there was an evident injury to the eye itself, was there not?

A Yes, sir.

Q Now, then, when you asked Sam to move his neck he moved it from left to right rather slowly and with difficulty, didn't he?

A That's right.

Q And when you asked him to be lifted up, or to get up so that you could examine the back of his neck he did it with <sup>and</sup> the supported help of Steve and the intern, did he not?

A That's correct.

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- Q And at the time that you examined it, Dr. Steve supported the neck so that it would not move?
- A That's right.
- Q That's right, isn't it?
- A Certainly, yes.
- Q So that an evident weakness was present in the man at that time?
- A No, you can't call it evident weakness, Mr. Corrigan.
- Q Well, what was it?
- A It was -- Steve told me that the man had a fractured neck. I assumed it was such, and Steve helped Sam raise his neck to support the neck, to be sure that he wouldn't cause him any injury if there were such a fracture present.
- Q Well, it was evident to you that this man was moving in bed slowly and with difficulty?
- A That's right, that's right. I don't deny that.
- Q Well, that was evidence of weakness?
- A Well, not necessarily, Mr. Corrigan.
- Q What?
- A Not necessarily.
- Q Well, was it evidence of strength?
- A No, sir.
- Q Well, what was it, then?
- A Well, that is something I can't answer, by golly. It's just simply --

Q Well, you are a Doctor.

A Certainly, I am a doctor, and I'm proud of it, sir.

Q Did the man look sick?

A Certainly Sam looked sick.

Q He looked sick?

A He had an injury to his face and his neck and --

Q What?

A He had an injury to his face, and his head. He looked sick. He was bound to look sick.

Q All right. Now, you said that Steve told you that Sam had a fractured neck?

A That's right.

Q Well, you testified before in this inquest, on Page 441, wasn't this question asked you by Dr. Gerber:

"Oh, that is all right."

Didn't you answer: "Thank you. My impression, the end of the physical examination was as follows, if I may go back a moment: Dr. Steve told me at the time there was no fracture present anywhere."

Do you remember testifying that way out in Bay Village?

A Sir, I don't remember saying ~~that~~, by gosh. It can be a typographical error.

Q Well, let me show it to you. Here is your testimony.

"If I may go back just a moment" -- just read in front here and you will see where you made a long statement --

"If I may go back for a moment, Dr. Steve told me at the time that there was no fracture present anywhere."

Is that the way it reads there?

A Yes, that's the way it reads, Mr. Corrigan.

Q Yes. Now, then, did you examine his mouth?

A Yes, sir.

Q In the examination that you just testified before this jury, you testified that the teeth were normal?

A That's right.

Q Did you examine them?

A I did.

Q Did you put your finger on them?

A No, sir.

Q Did you feel whether any of them were loose or not?

A No, sir.

Q Well, then, you couldn't tell whether they were normal or not, could you?

A Oh, by sight, Mr. Corrigan.

Q All right.

A Sam Sheppard could only open his mouth about 50 per cent.

Q Now, wait a minute. I asked you if you --

MR. DANACEAU: Let him answer

the question, please.

MR. CORRIGAN: What question is

before him?



THE COURT:

Well, he said --

the last he said was that Dr. Sheppard was only able to open his mouth 50 per cent.

Q Well, my question was not about opening his mouth. My question was about his teeth, and your answer --

MR. DANACEAU:

Yes, but your

question was about whether he could observe it or not, so he answered it.

THE COURT:

Put the question

to him again, Mr. Corrigan.

Q Did you observe his teeth?

A I did.

Q Did you put your hand on his teeth?

A No, sir.

Q Or your finger on his teeth?

A No, sir.

Q Did you find out whether any of his teeth were loose?

A No, sir.

Q You did not?

A No, sir.

Q Did you ask him to open his mouth?

A Yes, sir.

Q Could he open his mouth?

A He could only open his mouth about 50 per cent, Mr. Corrigan.

Q About 50 per cent?

A Yes, sir, because he complained of pain in his jaw.

Q And was that based upon what you observed about his ability to open his mouth?

MR. DANACEAU: We object unless --  
what is "that"?

THE COURT: Was it based on  
the conditions of the teeth or what?

MR. CORRIGAN: No. That isn't my  
question.

MR. DANACEAU: What does he mean  
by "that"?

THE COURT: I don't understand  
your question, really I don't.

MR. CORRIGAN: Neither does  
Mr. Danaceau.

MR. DANACEAU: You are right.

MR. CORRIGAN: But I will make it  
clear.

Q What did you, of yourself, observe about Sam Sheppard's  
ability to open his mouth?

A That Sam could only open his mouth about 50 per cent.

Q That was your conclusion?

A That was my conclusion.

Q And when he could only open his mouth 50 per cent, were  
you able to see inside his mouth?

- A Not very clearly, sir, because of that -- because of his only being able to open his mouth about 50 per cent.
- Q When you did make what observation you could within his mouth, did you see any injury in his mouth?
- A I saw a laceration on the right side of his mouth, several small lacerations on the right side of his mouth at the gum line.
- Q Was there any bleeding?
- A No, sir.
- Q Not at that time?
- A No, sir.
- Q Did you have any history of any bleeding?
- A No, sir. No, sir, I don't think so.
- Q Did you take any history?
- A From what Steve Sheppard told me, yes.
- Q What?
- A From what Steve Sheppard told me.
- Q Did you write the history down of what --
- A No, sir.
- Q -- his injuries were and what you knew about it?
- A No, sir. The injuries were written down in the physical examination.
- Q I mean the history?
- A No, sir.
- Q You did not?

- A No, sir.
- Q That is one of the first things a doctor does, isn't that correct?
- A That's right, sir.
- Q Is to obtain a history?
- A You are absolutely right.
- Q He sits down and talks to the patient and finds out what happened?
- A That's right.
- Q And he writes it down?
- A You are absolutely correct.
- Q And it aids him in determining the diagnosis of the patient, doesn't it?
- A Not necessarily.
- Q I don't know what you mean by "not necessarily." It aids a doctor in diagnosing and treating an injury by knowing what the history of the injury is?
- A The history of the injury, yes, if that's the way you put it, yes.
- Q What?
- A If that's the way you put it, yes, sir.
- Q All right. Now, then, you examined the reflexes?
- A Yes, sir.
- Q And you found out that certain reflexes were absent?
- A Yes, sir.

- Q And you say to the jury that doesn't mean a thing?
- A Not in as many words, not in so many words, I didn't.
- Q Is that the impression you want to give the jury, that the absence of reflexes means nothing?
- A The absence of reflexes, no, no, Mr. Corrigan, no.
- Q That is the way I understood you.
- A I'm sorry that I misled you, then.
- Q Let me see what note I made on that. You said that, "The absence of reflexes does not mean anything to us." Who do you mean by "us"?
- A What I said, the absence of a reflex doesn't mean anything to the doctor, a single reflex, doesn't mean anything to the doctor. It doesn't mean a thing to me, it doesn't mean a thing to any other doctor.
- Q The absence of a reflex doesn't mean anything to a doctor?
- A No, sir. You must have other conditions present to tie them in.
- Q How much work have you done --

MR. PARRINO: Just a moment.

I don't believe this witness is giving an answer that fully responds to the questions, your Honor.

THE COURT: It's all right.

MR. CORRIGAN: What is it?

MR. GARMONE: Go ahead with your

question, Bill.

THE COURT:

Put your question.

Q How much work have you done that involves the central nervous system?

A I have done enough work, Mr. Corrigan, on every patient who presents neurological symptoms. I have never kept any track of figures, whether it has been one or whether it has been a hundred thousand. I just can't answer that question. I'm not a neurologist.

Q What do you mean, you are not a neurologist?

A Just exactly what I say, I am not a neurologist.

Q We don't understand those terms, we are laymen. Explain to the jury and to the Court what you mean when you say "I'm not a neurologist"?

A Well, I'm just a general practitioner, by gosh, who sees patients every day, and a neurologist is a specialist who just sees patients who have involvement of the nerves and the central nervous system.

Q So when you have a case that involves the central nervous system or an impairment of the central nervous system, you don't treat them, you send them to a specialist?

A On the contrary, sir, that isn't right.

Q What?

A That isn't right. If I see a patient with a central nervous system lesion, I do a normal neurological examination

on that patient. If I feel that that patients needs a neurologist or a neuro-surgeon, he is referred to that particular individual. I do not treat him after that.

Q Well, as I understand you now, Doctor, you are saying to this jury that the absence of the reflexes in this man didn't mean anything to you?

A It didn't, Mr. Corrigan.

Q What?

A It didn't.

Q Well, when you --

A It didn't mean anything to me at that time. Remember, I only saw this patient once.

Q You only saw the patient once?

A Yes, sir.

Q One of the first things that you do to find out if there is an involvement of the nervous system is to examine reflexes, isn't it?

A Reflexes, spinal fluid --

Q I am just saying reflexes.

A I'll go along with you, just reflexes, period.

Q And if you find an absence of a reflex, it's a danger signal or a warning signal to you, isn't it?

A If there is an absence of a single reflex and there isn't anything else present, it doesn't mean a thing to me, Mr. Corrigan.

Q All right. But, anyway, there was some complaint of pain in the back of the neck?

A That's correct, on palpation.

Q You had evidence of injury on the front of the face that you could see?

A That's right.

Q What?

A That's right.

Q You had knowledge that the man had been knocked out by a blow in the back of the head, didn't you?

MR. DANACEAU: Objection.

THE COURT: Objection sustained.

Q Did you have any knowledge of him being knocked out on that morning?

MR. MAHON: Well, I object to the question, as to knowledge, your Honor.

THE COURT: The knowledge, yes, I think that that is objectionable. Let's put the direct question to him. Had you any information that the doctor had been knocked out that morning?

THE WITNESS: The only information I had, your Honor, was when Mrs. -- excuse me, I am sorry.

Q The question was: Did you have any information?



Q Well, I know, but here with Dr. Sheppard you had a lot of other things present?

A No, I didn't.

Q You had a complaint of an injury in the back of the neck, didn't you?

A I had a complaint of pain in the back of the neck.

Q Well, you can't have pain unless you have an injury, can you?

MR. PARRINO: I object to this,  
now, your Honor. You can have a complaint  
without having an injury.

THE COURT: The doctor may  
answer whether you can have pain without injury.

A Yes, you can.

Q You can?

A I suppose you can.

Q Well, what kind of a pain would you have without injury?

A Well, I'll take that back. I'm wrong. I'll admit I am wrong. That isn't right, it isn't right.

Q So you had the complaint of pain in the back of the neck, didn't you, in this case?

A That's correct.

Q And on pressure you elicited pain, didn't you?

A Yes, sir -- no, I didn't elicit pain. The patient complained of pain.

A Yes, I did.

Q All right. And you had information that he had been knocked out on that morning?

A No, sir.

Q You didn't have any information?

A No, sir.

Q Well, what information did you have?

A I had information that Marilyn Sheppard had been killed and I had information that Sam Sheppard had been injured.

Q That Sam had been injured?

A Yes, sir.

Q Did you have any information of the fact that he had lost consciousness on that morning?

A No, sir.

Q You did not?

A Not at that time.

Q Well, did you have it before you wrote your report?

A I believe Steve Sheppard told me that, Mr. Corrigan.

Q You do have the information now, do you not?

MR. DANACEAU: Objection. Just a minute.

THE COURT: Well, let him say whether he has any such information from any source.

MR. DANACEAU: Just a minute.

if the court please. I want to object to this.

Information from whom?

THE COURT:

Well, that is what

I am --

MR. DANACEAU:

He has already

answered that.

THE COURT:

That is exactly

what the court was trying to clear up. Did you

have information from any source, and if so,

from what?

THE WITNESS:

I had information

from Dr. Steve Sheppard, your Honor.

MR. CORRIGAN:

All right.

Q Now, then, in addition to that, you found that he was suffering from some injury to the --

A To the eighth and ninth ribs.

Q To the eighth and ninth ribs?

A On the right side.

Q And that he was lying in bed, and that when he was lifted up for an examination, he had to be helped up into that position?

A That's right.

Q Now, then, you had all that picture when you discovered the absence of reflexes?

A Absence of only two reflexes, sir.

Q Well, you found the absence of reflexes?

A Yes, sir.

Q And with that picture and the absence of reflexes, you say to the jury, "It doesn't mean anything to us"?

A I doesn't mean anything to me, Mr. Corrigan,

Q It doesn't mean anything to you?

A No, sir.

Q Now, then, when you testified in the inquest, you stated, did you not, on Page 455, in answer to a question addressed you by Dr. Gerber, he says, "Again can that occur and not be abnormal?"

And you answered: "Well, sir, that can occur, it can be probable. Of course, I am not an authority on it, I suppose we can have a patient with absent normal reflexes.

On the other hand, an abnormal reflex or absence of abnormal reflex may indicate some trouble"?

A That's right. Let me have that, will you?

Q And when you found that --

MR. GARMONE: He wants that.

Let him have it. You want that, you say?

THE WITNESS: Yes, sir. May

I have that again and read it over?

MR. GARMONE: He wants you to

read it over to him.

MR. DANACEAU: No. He didn't say that. He wants to read it over.

MR. GARMONE: I'm sorry. He wants to read it.

MR. CORRIGAN: All right. He can read it.

MR. DANACEAU: How can he read it from there over here?

MR. GARMONE: I'll take it over to him.

Q What do you want to read, what I read?

A The same thing you read to me, Mr. Corrigan.

MR. GARMONE: Right down here at the bottom of the page. Read it to yourself.

Q Now, then, what you read this morning you read yesterday, didn't you?

A No, sir.

Q Wasn't that record out to Mr. Danaceau's house?

A No, sir. If it was, I didn't see it.

Q What?

A If it was, I didn't see it. We didn't discuss that, Mr. Corrigan.

THE COURT: If that was, he didn't see it, he did not discuss that.

THE WITNESS: We didn't discuss it.

Q Now, then, the reflex that was absent in the abdomen, you said you found abdominal reflexes absent?

A Abdominal reflex absent. Only one on the left side, and the left lower abdominal, Mr. Corrigan. There are four of them present.

Q On which side did you find -- you said you found the cremasteric reflex absent?

A On both sides.

Q On both sides?

A Yes, sir.

Q And the cremasteric reflex is evidenced by stroking the inside of the thigh, isn't it?

A Correct.

Q And if the reflex is present, the testicle on that side rises up?

A Correct.

Q And you found that the reflexes on both sides were absent?

A Yes, sir.

Q Now, that indicated to you as a doctor that there was some derangement of the central nervous system, did it not?

A No, it didn't.

Q What?

A No, it didn't.

Q It did not?

A No, sir.

Q It was abnormal, was it not?

A I stated, sir, that in 11 per cent of the cases of normal patients the cremasteric reflex is absent.

Q 11 per cent of the cases?

A 11 per cent of the -- of a hundred men in this room, sir, 11 men may have an absent cremasteric reflex and that could be perfectly normal with those individuals.

Q Where did you get that figure, Doctor?

A Where did I get that figure?

Q Yes.

A All right, sir. I'll tell you.

Q What?

A I'll tell you.

Q Where did you get the figure?

MR. DANACEAU: He is telling you.

A I'll tell you, sir, where I arrived at the figure. I arrived at the figure from several places. I talked to Dr. Sheldon, a neurologist; Dr. Bishop, Dr. Haggerty. They are all neuro-surgeons who have told me that.

Q Wait a minute.

A Wait a minute, sir. You asked me a question, sir. Let me explain it.

I also was, as I said before, on the industrial -- I mean a medical examiner for the Industrial Commission of Ohio. It's my duty to see about 25 or 30 cases of --

MR. CORRIGAN: I ask that be  
stricken.

THE WITNESS: Wait a minute,  
Mr. Corrigan.

MR. CORRIGAN: I ask the witness  
be compelled to answer the question.

MR. MAHON: He is answering it.

THE WITNESS: I am answering your  
questions as to how I arrived at those figures.

MR. CORRIGAN: No. You are going  
into a lecture.

MR. MAHON: Oh, no.

THE COURT: He is giving the  
details of how he arrived at his figure.

MR. CORRIGAN: I'll sit and listen.

THE WITNESS: Thank you, sir, for  
your courtesy.

A (Continuing) To me, I wanted to find out what I could see  
in his reflexes. All male patients who came to my office --  
I shouldn't say all, I should say most of the male patients  
who came to my office I put on the table, I examined their  
cremasteric reflexes, and on all patients, or most all of  
my patients who came to my office, I also did abdominal  
reflexes, male and female.

I asked one of the residents at one of the hospitals



to run a series of cases for me so that I wouldn't be influenced one way or the other, to see what he would find. He gave me figures of 11 per cent absence of cremasteric reflexes.

Q Who is this, now? What was his name?

A Sir?

Q What was his name?

A Dr. Marshman of Lakewood Hospital.

I did them on my own patients and I found 11 per cent absent reflexes. The authorities on this particular case told me that in normal individuals cremasteric reflexes are absent in 11 per cent of the cases.

Q What authorities?

A Why, our neurological authorities right here in the City of Cleveland.

Q Give me their names?

A Those are the men I must go to.

Q Give me the names of those authorities?

A Dr. Haggerty.

Q Who is Dr. Haggerty?

A Dr. William Haggerty. He is neuro-surgeon for Lakewood, Lutheran and Crile Hospital.

Q These are conversations you are talking about with doctors, aren't they?

A Well, it's the experience that these gentlemen have had, sir,

and teaching that --

Q There are authorities, written authorities?

A I assume they are.

Q What are they? Who are they? What is the name of any written authority that you have?

A Well, William Dandy.

Q William Gandee?

A Dandy, D-a-n-d-y, is an authority in neuro-surgery.

Q Yes. Now, then, as I understand it, when you found the absence of a cremasteric reflex in Sam Sheppard on the 4th of July, since that time you have been going around asking doctors and various people if a cremasteric reflex could be absent without an injury, isn't that so?

A Oh, certainly, sir. I don't deny that.

Q What?

A Certainly, sir.

Q What?

A Sure. Oh, yes.

Q So you were trying to verify or bolster a fact that a cremasteric reflex could be absent without an injury? You didn't know it yourself? You went around asking other people?

MR. DANACEAU:

Object.

MR. MAHON:

Object to that, if

your Honor please.

THE COURT:

Objection sustained.

MR. PARRINO:

Mr. Corrigan, a moment ago, made a statement about a speech, if the Court please. Now who is making a speech?

THE WITNESS:

That's wrong, Mr. Corrigan.

THE COURT:

That's all right. There is no question.

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Q Now, then, when you have the absence of a reflex, will you explain to the jury just what that shows so they will understand? We are talking about reflexes.

A Will you repeat that, sir?

Q When you have the absence of a reflex --

THE COURT: What does it indicate?

Q -- what does it indicate?

MR. PARRINO: Are we talking about the cremasteric reflex now?

MR. CORRIGAN: Yes, we are talking about the cremasteric or any other reflex.

A The absence of a cremasteric reflex by itself, ladies and gentlemen, doesn't mean a thing to me.

Q Doesn't mean a thing?

A By itself, it doesn't mean a single thing to me, sir.

Q Now, when you stroked the inside of the thigh at the place where that nerve controlled the testicle, you did that for a purpose, didn't you?

A Why, certainly, sir.

Q What?

A Sure, I did it for a purpose.

Q And when you stroked that sensitive place there, was there a transfer, or should there not be a transfer of the

sensation produced by the stroking of your finger back to the central nervous system?

A That is a long question, Mr. Corrigan. That is a long question. Will you please repeat it? I want to be sure --

Q No. It is a very simple question.

A To you, sir, it may be, but I want to be sure I get it.

Q Now, it is simple, and I will make it simpler still.

A Splendid.

Q When you stimulated -- and that is what you did -- you stimulated that particular part of the man's body, didn't you?

A Yes, sir.

Q And that was your purpose?

A Yes, sir.

Q And when you say you stimulated it, you were touching certain nerves along that particular part of the body?

A I was touching the skin.

Q Well, you were touching the skin where the nerves came, you were touching the -- stimulating something there, weren't you?

A Yes, sir.

Q And what were you stimulating?

A I was stimulating an impulse.

Q Well, you were stimulating certain nerves that come down to that particular part of the body?

A I was stimulating the nerve endings, Mr. Corrigan.

Q Nerve endings. You were stimulating nerve endings, and you were stimulating the nerve endings, were you not, to send an impulse along that nerve back to the central nervous system?

A Yes, sir.

Q What?

A That's right.

Q Now, when you stimulate a nerve and send the impulse back to the central nervous system, something happens there in the central nervous system, doesn't it, Doctor?

A That's right.

Q There is a transfer of the stimulation in the central nervous system from that particular nerve over to the motor nerves, isn't there?

A Yes.

Q What?

A I suppose so.

Q You suppose so. Well, is it a fact?

A All right. Let's say yes, Mr. Corrigan. Yes.

Q And then the motor nerves carry the impulse back to the spot, and you get the result of the reflex, don't you?

A Yes.

Q In other words, it is just like a telephone system?

A Correct.

Q I telephone here to the central station, and the girl at the central station gets my number and transfers my call over onto another line, and the call goes out to the person I want to talk to. That is just about the way it is, isn't it?

A Yes, sir.

Q It is a round trip message, and when you talk about a reflex, the absence of a reflex, when you give this stimulation and you don't get the response on the return wire, then you know there is something wrong back in the backbone or in the central nervous system, don't you?

A That's right, but --

Q Yes, all right.

A But --

Q Now, then, --

MR. DANACEAU: Just a minute.

He said "but," and you didn't let him finish.

Don't you want him to answer it?

MR. CORRIGAN: He will answer all my questions. Don't worry.

MR. DANACEAU: Well, just a minute, the witness said "but."

MR. CORRIGAN: Why am I always interrupted by Mr. Danaceau in my examination?

MR. DANACEAU: Because you won't let the witness finish his answer.

THE COURT: I know, but he completed the answer to the question.

MR. GARMONE: He certainly did.

MR. DANACEAU: He said the word "but." I heard it and I suppose everybody else in the court heard it.

Now, that is not a completion.

THE COURT: You can have the doctor clarify anything that isn't cleared up.

Q Now, when we are talking about reflexes, a person doesn't have any control over his reflexes, does he?

A I don't think so, Mr. Corrigan. I don't think so, no, sir.

Q If we breathe --

A We have control of that.

Q We don't have control, do we, Doctor, of --

A Of our breathing?

Q Yes.

A Why, you can stop breathing for a moment, sir. You have got control of that.

Q Well, I know, but you breathe at night when you are asleep?

A Why, sure, but you are asleep.

Q I can control it for a minute. If I come up and throw my



A hand in front of you, you will have a reflex, won't you?  
That depends on how close you get to me as to whether I  
have a reflex.

MR. CORRIGAN: Well, I don't  
know whether we are saying these things for  
the amusement of the crowd here in the courtroom,  
or whether we are doing this for the jury.

Will you put into your record that at this  
point the audience broke into a loud laughter?

MR. DANACEAU: We object to that.  
There wasn't any loud laughter, no more than --

THE COURT: Yes. The Court will  
say it is not loud laughter, certainly. There  
was some laughter.

Q Now, then, we have got it all cleared up?

A I hope so.

Q I hope so, yes. Now, then, if you have the absence of a  
reflex, of a cremasteric reflex, which indicates something  
wrong with the central nervous system because the return  
wire didn't respond -- that's right, isn't it?

A No, it isn't, Mr. Corrigan. No, it isn't.

Q All right, I will have to go over it with you again.

A No, you don't have to go over it with me again.

MR. DANACEAU: We object to going

over it again. This is about the fourth time.

THE COURT:

You will have to go

over it again. He says it is not correct.

A As I said, sir, before, there is a percentage of normal individuals who never have a cremasteric reflex from the time they are born, as long as they live, and there is nothing wrong with their nervous system. You, sir, may have an absence of a cremasteric reflex.

Q Did you ever go back to Dr. Sam Sheppard?

A To see Sam?

Q Did you ever go back to Dr. Sam Sheppard and perform an experiment to find out if his cremasteric reflexes were active?

A I only saw Sam once, Mr. Corrigan.

Q You only saw him once. Now, then, you found that the abdominal reflexes were absent on both sides?

A No, sir.

Q On one side?

A On the left lower abdominal reflex, Mr. Corrigan.

Q And that indicated to you, did it not, that there was something wrong with that particular reflex, and that there was something wrong in the central nervous system when that was absent?

A No, sir, it didn't.

Q It didn't?

A I said that before: It didn't.

Q If you mean to indicate to the jury that reflexes don't mean anything, what in the world were you investigating?

MR. MAHON: Well, now, your Honor, he hasn't said that.

THE COURT: Objection will be sustained. Now, Mr. Corrigan, I think you ought to go back to that and clear it up.

In his very direct testimony originally he said that the absence of a reflex in and of itself need not mean anything.

Isn't that what you said?

THE WITNESS: Yes, sir. That's what I have been trying to say right along, sir.

THE COURT: Sure. He made that point in his direct testimony originally.

Q And reflex, in and of itself, doesn't mean anything?

MR. PARRINO: The absence thereof.

A In its absence, it doesn't mean anything, Mr. Corrigan. You have to have other symptoms or signs present before they can --

Q Let's get this cleared up a little bit.

A Well, sir, I will try to help you.

Q A woman -- anyone of these women working in her house, she is ironing, or she is cooking, and she puts her

finger on something hot, does she pull it away?

A Why, certainly she pulls it away.

Q And if she didn't pull it away what would happen?

A She'd burn her hand.

Q She'd burn her hand?

A Yes.

Q Yes. And isn't it a fact that that is a reflex, that that woman touches a hot spot and immediately there is a pulling-away of the finger?

A Yes.

Q And if she left her finger there after she touched that hot spot, that would mean there was an absence of the reflex, wouldn't it?

A She had better go and see a doctor.

Q And that her finger would burn, and the reason that she pulls it away is not because she feels pain --

A Well, what does she feel?

Q What?

A What does she feel?

Q Does she feel pain?

A What does she feel?

Q You are asking me questions. I am asking you, Doctor, does she feel pain?

THE COURT:

Does she feel pain?

A Well, certainly she should feel pain.

Q Does she think, as she puts her finger on that hot spot, "Well, now, I am having pain, therefore I must pull my finger away"?

MR. DANACEAU: We object. Just a minute. We object to that.

MR. CORRIGAN: Well, you are objecting to everything. I am asking questions.

THE COURT: All right. Let the doctor answer.

A Repeat your question, please.

Q Does she think, as she touches that hot spot, that, "I am having pain, my finger is being burnt, therefore I must pull it away or it will be burned"?

A She has to think plus a reflex action. She has got to do both.

Q She has got to do both?

A Yes.

Q All right. Now, let's see how quick she does it. The fact is that when she puts her finger on that hot spot the sensitive nerve fibers of her finger immediately telegraph back to the central nervous system, don't they?

A Yes.

Q And when they get to the central nervous system they are transferred over to the muscular -- the nerves that control the muscle, aren't they?

A It goes up to the brain first, see, then down to the muscle.

Q It goes up to the brain, but there is a transfer from the sensitive nerves to the muscular nerves in this central nervous system, aren't there?

A After it travels to the brain.

Q After it travels to the brain. And then she pulls her finger apart?

A Yes.

Q And that is a reflex?

A That is a reflex, that's right.

Q And our whole life is constantly governed by reflexes, isn't it?

A I think so, so.

Q An athlete that is playing baseball, for instance, -- and you have seen this a thousand times if you have watched television or watched baseball games -- as the ball comes up and comes toward the player, he will fall away, won't he?

A That's right.

Q So he doesn't get hit. That is a reflex, isn't it?

A That is a reflex of self-preservation, yes.

Q And that is the reflex of the eye?

A That's right.

Q And the things are more than instantaneous. They are so fast that no one could ever follow how fast those reflexes travel through the body, can they?

A The patient is thinking. It is being transmitted to the brain.

Q If you get something in your nose suddenly, the contents of a substance against some nerve in your nose, the sensitive nerve in your nose, would be transferred to the central nervous system back to the muscular system -- muscular nerve and you will sneeze. You don't control those things, do you?

A That's right.

Q And the whole thing, the whole body, everything we do except when we consciously walk or talk or do things of that kind, all other movements are governed by these reflexes over which we have no control?

A Well, if you put it that way, that's right, surely.

Q And then you say to this jury that when you found the absence of reflexes, it didn't mean anything to us?

MR. DANACEAU: Object to that. He didn't say anything of the kind.

THE COURT: Objection will be sustained. The jury will be instructed to disregard it entirely.

MR. CORRIGAN: He said that.

MR. DANACEAU: He said by itself, it doesn't.

MR. CORRIGAN: What?

MR. DANACEAU: He qualified it  
"by itself."

THE COURT: Sure.

MR. PARRINO: And I might add, sir,  
that he was referring to the cremasteric in the  
abdominal reflexes when he said that.

MR. CORRIGAN: "Experienced and  
literature says that the absence of these reflexes  
does not mean anything to us."

Q Now, you know this, Doctor, do you not, that when you have  
an injury -- and you learned this -- that when you have an  
injury to the back of the neck, you have a pretty serious  
situation, don't you?

A That, sir, depends upon the seriousness of the injury, the  
seriousness of the blow.

Q Well, isn't it a fact that a blow to the back of the neck  
has greater effect upon you, or upon any person, than a blow  
to any other part of the body?

A Not necessarily, Mr. Corrigan, no.

Q It doesn't?

A No.

Q Well, all right. Now, I will ask the Court and the jury  
to do this, and I will ask you to do this: Give yourself



a blow in the back of the neck to the base of the brain,  
just a slight blow --

MR. DANACEAU: We object to this  
kind of showmanship, exhibition.

MR. CORRIGAN: It isn't an exhibition.

MR. DANACEAU: That's all it is.

THE WITNESS: I have done that  
myself --

MR. DANACEAU: Just a moment, sir.  
We object to that, sir.

THE COURT: The objection will  
be sustained.

MR. CORRIGAN: What is wrong about  
my -- I can have an experiment performed in this  
courtroom.

THE COURT: Oh, no.

MR. CORRIGAN: Why?

THE COURT: Not of that kind.

Q Well, let me put the question this way:

If you give yourself a blow in the back of the neck,  
just about like I am doing now, and use the same force on  
the front of the leg, will there be a difference in the  
effect it has upon a person?

A That depends, sir, upon the threshold of pain that these  
individuals are subject to.

Q No. I am just --

MR. MAHON: Let him answer now.

Q All right.

MR. PARRINO: Here we go again.

MR. MAHON: Are you finished with  
your answer, sir?

THE WITNESS: Yes, sir.

Q I am just illustrating right here in front of this jury,  
this kind of a blow, this much force, a slight force at the  
base of the brain, and the same slight force on the front  
of the leg, is there a difference in the effect of those  
blows?

A Well, I suppose there can be, Mr. Corrigan, certainly. It  
would be foolish of me to say anything else.

Q You know as a doctor that there is a tremendous effect,  
difference?

A Oh, no, there isn't, not a tremendous effect, no.

5 Q That a blow on the leg of the same force and a blow on the  
back of the neck of the same force has the same effect upon  
the human body?

A I didn't say that, Mr. Corrigan. I said --

Q Well, then, what did you say?

A I said there would be a difference, but not a tremendous  
difference, as you put it.

Q Well, there would be a tremendous difference?

- A No. How can there be?
- Q Well, isn't it a fact that you know that a blow on the back of the neck at the base of the skull involves all the nerves that control the human body?
- A Not all the nerves that control the human body, no.
- Q Well, it controls --
- A It controls the nerves coming out of that particular region only, Mr. Corrigan.
- Q Well, what other nerves come out of that particular region?
- A What other nerves --
- Q I mean, do not come out of that particular region?
- A What part of the body are you referring to?
- Q I am talking about the base of the skull, where the medulla oblongata leaves the skull.
- A Yes.
- Q The hole in the bottom of our skull --

THE COURT:

The question is:

What other nerves are there?

THE WITNESS:

I understand, sir.

- Q What other nerves that do not come out of that particular place are there?
- A Well, I suppose a great majority of the cranial nerves don't come out of that particular region.
- Q You mean the nerves that come up this way?
- A And the nerves that go to the tongue, the nerves that go

to the ears, the nose, the mouth, do not come out of that particular region. The only nerves that come out of there, sir, are the spinal nerves that come out from this area.

Q The other nerves that control the other parts of the body below the neck -- let's take it this far -- come out there, don't they? The nerves that control my breathing come out there, don't they, or down there?

A I don't know that, no, sir.

Q You don't know that?

A No, sir, I don't know it, and I will admit I don't know it.

Q Don't you know where the nerves that control my breathing come out of the brain?

A Mr. Corrigan, --

Q No. Answer the question.

A Mr. Corrigan, --

Q No. If you don't know, tell me you don't know.

A No, I am not going to do that.

Q Why not?

A Why not? Well, I'll tell you, sir, because I graduated from medical school in 1934, and --

Q Well, what has that got to do with it?

A A lot, sir.

Q Why?

A Because I haven't studied neurology since 1934, and I have forgotten a great majority of those things. It isn't necessary for me to remember those things.

Q Oh, surely, Doctor, you know --

A Don't surely Doctor me, sir. It isn't necessary for me to remember that.

Q It isn't necessary for you to remember it?

A Of all of that sort of stuff, no, sir.

Q Well, there is nothing difficult about that or nothing complicated about it?

A It may not be difficult to you, sir.

MR. DANACEAU: We object to this,  
Dr. Corrigan's remarks.

MR. CORRIGAN: I don't know what  
you said, sir. What did you say?

MR. DANACEAU: I said I objected  
to Dr. Corrigan's remarks.

MR. CORRIGAN: I ask the jury be  
instructed to disregard that testimony. I am  
not a doctor and I don't pretend to be a doctor.

THE COURT: The jury will  
disregard that.

MR. CORRIGAN: I am a lawyer.  
All I do is ask questions.

THE COURT: Could we have a little recess?

MR. CORRIGAN: All right, sir.

THE COURT: Ladies and gentlemen of the jury, we will have a little recess at this point.

Please do not discuss this case.

(Thereupon a recess was taken at 10:55 o'clock a.m., at which time the following proceedings were had at 11:10 o'clock a.m.):

Q Doctor, before we went to recess, you stated that you did not know what nerves came out of the base of the brain and what they controlled. Do you mean that?

A I don't mean that, no, sir.

Q Well, now, you know that the nerves that come out of the base of the brain, or at the base of the brain, are the nerves that control all the vital functions of the body, don't you?

A Yes.

Q They control your breathing?

A Yes, sir.

Q They control your heart action?

A Correct.

Q Your liver, your stomach, your spleen?

A That's right.

Q Your locomotion?

A (Witness nods affirmatively.)

Q Everything?

A (Witness nods affirmatively.)

Q And you know this, do you not, Doctor, that a blow at the base of the brain at the back of the neck here, at the base of the brain, is a very dangerous blow?

A It depends, Mr. Corrigan, upon the severity of the blow.

Q Well, my question was, that a blow -- and I didn't talk about the severity of it -- a blow at the base of the brain does interfere with vital functions?

A No, I don't think so.

Q You don't?

A I don't think so.

Q I suppose you have watched boxing in your life, haven't you?

A A little bit.

Q And you heard the instructions of the referee?

A Yes, sir.

Q And one instruction he gives constantly to both fighters is, "There shall be no rabbit punches"?

A Yes, sir.

Q And that is fundamental in that particular athletic activity that there shall be no blows at the back of the head?

A Yes, sir.

A That's as far as I will go, sir. It may interfere with the vital functions of the body.

Q Don't you know of instances in your reading or in your practice where a severe blow on the back of the head at the base of the brain has caused both unconsciousness and death?

A If there is a severe injury to the spinal cord, transverse sections of the spinal cord, there will be immediate death.

Q That didn't answer me.

MR. CORRIGAN: Will you repeat the question?

(Question read by the reporter.)

A Yes, I suppose it can.



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- Q. Do you know of instances where people have been in an automobile accident, where there has been a sudden collision and the head is snapped back --
- A We call those whiplash injuries.
- Q What?
- A We call those whiplash injuries.
- Q -- where the head has been snapped back, that an injury is caused to the base of the brain?
- A Not necessarily.
- Q Well, not necessarily?
- A No, sir
- Q Does it ever happen?
- A It can happen, yes.
- Q And that will cause unconsciousness?
- A No, I don't think so.
- Q You don't think so?
- A No, sir. I have just had five cases of that, sir, where there wasn't any unconsciousness, very recently in my practice, of whiplash injuries.
- Q Well, it causes some disorganization of the body, doesn't it?
- A Only, sir, with pain in the back of the neck these people complain of. If it's severe enough, you can get other injuries, Mr. Corrigan -- or other symptoms, Mr. Corrigan.
- Q And it will cause stiffness of the neck?
- A Stiffness of the neck, I suppose it can, yes.

Q You don't seem to be certain about these things, Doctor.

A I certainly am, sir. It's just a figure of speech I am using, Mr. Corrigan.

Q What?

A It's just a figure of speech. Let me say I am sure.

Q Now, then, you said that after you had examined these cremasteric --

A What?

Q You said that after you had examined and found absent the cremasteric reflexes in Dr. Sam Sheppard, that then you made some inquiry about how often those cremasteric reflexes were absent in individuals, and you said about 11 per cent; is that correct?

A Yes, sir.

Q And you said that you had examined every patient that had come to you to find out if he had cremasteric reflexes present or cremasteric reflexes absent?

A That's right.

Q Is that what you said?

A Yes, sir, almost every patient.

Q Almost every patient. If a man come in with a cold, you would examine his cremasteric reflexes?

a Yes, sir.

Q What?

A Yes, sir.

Q If he come in with a cut finger, you would examine his cremasteric reflexes?

A No, sir.

Q That isn't quite correct, is it, Doctor, that you examine everybody that come into your office for the cremasteric reflexes, is it?

A Mr. Corrigan, I said I examined almost every patient --

Q Almost every patient?

A -- several times, sir.

Q Now, if you have a cremasteric reflex absent, if you find it is absent, and then you examine him again and find it present, then you know that there was something wrong with the man on the first occasion that you examined him, wouldn't you?

A Not necessarily.

Q Does a cremasteric reflex return?

A In cases of injury to the sacral region, the cremasteric reflex can be absent. Where the injury recovers, then the cremasteric reflex can return to normal.

Q If a person has an absent cremasteric reflex, normally it will not return, will it?

A It shouldn't return, no, sir.

Q What?

A If it is absent from birth, he shouldn't have any.

Q And if a person has a cremasteric reflex that does return,

then you know that there was something wrong with him on the first occasion of your examination?

A Not necessarily, Mr. Corrigan.

Q What

A Not necessarily. Here we come back again to the single reflex.

Q Did you learn that Sam Sheppard's cremasteric reflex returned?

A No, sir, I didn't. I said I --

Q You didn't hear that?

A No, sir.

Q You didn't hear that from anybody?

A No, sir.

Q Now, then, you said that the absence of a reflex of itself, of a single reflex of itself, didn't mean anything to you?

A No, sir.

Q What?

A No, sir.

Q Well, don't you know that in polio -- that the absence of a single reflex in a child that comes in with a cold is an indication and a warning signal that there might be polio?

A No, sir.

Q You don't know that?

A No, I didn't say that. I said it doesn't.

Q Do you know anything about polio?

A A little.

Q A little?

A Yes, sir.

Q Well, I will ask you this question: If a child comes in to you and is presented to you, or you go to examine a child, and that child has, say, for instance, a cold or a running of the nose, and it is an infant --

A It is what?

Q It is an infant, and you examine it and you find a reflex absent, does it indicate anything to you?

A No, sir, it doesn't.

Q It does not?

A No, sir.

Q You would go no farther?

A Oh, no, no. Don't lead --

Q What would you do?

A Don't lead me astray, on that, sir.

Q What?

A Don't lead me astray.

MR. DANACEAU:

The question was:

What would you do? Will you please answer it?

A I would examine that child thoroughly to be sure there wasn't any polio.

Q I am just confining this to one thing. The child comes in, is brought to you, with a running nose and you examine it,

the mother says it has a cold and you examine it and you find a reflex, a single reflex absent, do you arrive at any conclusion?

A I examine that child thoroughly, sir, and I do what we call watchful waiting.

Q Without examining it further. I am saying, you find just those two things, the cold and the one absent reflex.

MR. PARRINO: I object to this, your Honor. The Doctor has stated that he would examine the child further.

THE COURT: I think he may say that. Would that mean trouble? That is what Mr. Corrigan wants to find out.

MR. CORRIGAN: Yes.

THE WITNESS: Please restate the question, Mr. Corrigan, so I can give you an answer.

Q I will give you the question again.

A All right.

Q The child has a cold.

A Correct.

Q That is obvious to you. You then find one absent reflex.

A Yes.

Q Does that mean anything to you?

A Does it mean anything to me?

Q. Yes.

A If this child has a cold and runny nose, the absence of a single reflex and no other symptoms, it doesn't mean a thing to me.

Q It doesn't mean a thing to you?

A No. I would do watchful waiting.

Q I am confining it to just that one thing. It doesn't mean a thing to you?

A Right then and there, sir, it doesn't mean a thing to me, Mr. Corrigan.

Q I see. All right. Don't you know, Doctor, that it is one of the danger signals, the absence of a single reflex in a child is one of the danger signals as to whether or not that child has the beginning of polio?

A No, sir, no, sir, it doesn't. You have to have other things present.

Q All right. Now, if you have the absence of the cremasteric reflex in 11 per cent of the people, you say, it wouldn't mean anything?

A By itself, sir, no, sir, it doesn't mean a thing.

Q What?

A By itself, sir, it doesn't mean a thing.

Q Then in 89 per cent of the people it would mean something, wouldn't it?

A By itself, sir, it doesn't mean a thing.

Q. In no one?

A Sir?

Q In no one it doesn't mean anything at all?

A Let's you and I get together, now.

THE COURT: He says in 100 per cent of the cases does the absence of a single reflex mean anything, in 100 per cent of the cases? That is his real question.

Q It doesn't mean anything in anybody, is that what you mean to say?

THE COURT: In and of itself?

THE WITNESS: A reflex by itself?

THE COURT: That's right.

THE WITNESS: In a hundred cases, if one patient had one reflex absent, is that what you mean? It doesn't mean a thing.

Q Well, you have the reflex absent in an injured man here in this instance, didn't you?

A Yes.

Q Well, it certainly must mean something to you when you see an injured man with an absent reflex?

A Mr. Corrigan, I stated earlier that the absence of a reflex by itself, regardless of injury, that man or that patient must show me other signs and other symptoms before I can become alarmed over it.



Q Well, you had in this case an injured man, didn't you?

A Correct, an injury to the forehead and not at the base of the brain.

Q What?

A An injury to the forehead.

Q You say there was no injury to the base of the brain?

A I said an injury to the forehead, not to the base of the brain.

Q You say there was no injury to the base of the brain?

A I didn't say that. I said an injury to the forehead and not to the base of the brain.

Q I am asking you the question: Do you say there was no injury to the base of the brain?

A I don't mean it that way, Mr. Corrigan.

Q Well, will you answer the question? Was there or was there not an injury to the base of the brain?

A That is a question I can't answer because I only saw Sam once.

Q You don't know, then, is that the answer?

A No, sir, I don't know.

Q I see. Well, now, you talked to a number of doctors. Did you talk to Dr. Charles W. Elkins?

A Yes, sir.

Q What?

A Yes, sir.

Q And he is on the staff of Lutheran Hospital, isn't he?

A Yes, sir.

Q And he told you that there was an injury to the base of the brain, didn't he?

A No, sir.

Q He did not?

A No, sir.

Q What?

A No, sir.

Q Do you know that he examined him?

A Yes, sir.

Q And that he was a patient, that Sam was a patient of Dr. Elkins?

A Yes, sir.

Q What?

A Yes, sir.

Q And Dr. Elkins is an eminent neurologist, is he not?

A Correct.

Q What?

A I have used him as a consultant many times in my cases.

Q He is one of the top men of the country, isn't he?

A He is one of the top men in the City of Cleveland.

Q Top men in the City of Cleveland, well, that would put him in the top men of the country, then, wouldn't it?

A That is a question I can't answer.

Q Well, what is your opinion of him?

A I think he is a wonderful man. I think he is an eminent neuro-surgeon.

Q Now, then, when you went in, you answered Mr. Danaceau, and went over with him yesterday, that his blood pressure -- his pulse was normal, when you examined his pulse, you stated his pulse was normal?

A 78 was considered normal, yes, sir.

Q What sedation did Dr. Sheppard have before you examined him?

A That, sir, would be on the hospital record.

Q What?

A That would be on the hospital record.

Q No. I am asking you.

A Yes, I know you are asking me, sir. That would be on the hospital record. I believe, sir, that Dr. Sheppard had some demarol.

Q And what is the purpose of giving a sedation?

A To quiet the patient down.

Q Quiet him down?

A Yes.

Q And you know that when you examined him, that he had this sedation to quiet him down, don't you?

A Yes.

Q And that would affect his normal pulse, wouldn't it?

A It depends, sir, upon how long the sedation has been administered to the patient as to its activity.

Q I say, sedation is given for the purpose of quieting the pulse, quieting the heart, quieting the nervous system?

A And relieve pain.

Q And bringing down the blood pressure?

THE COURT: And relieve pain,  
he said.

MR. CORRIGAN: I didn't hear you,  
your Honor.

MR. GARMONE: He said, "And  
relieve pain."

THE WITNESS: And relieve pain.

Q What?

A And relieve pain.

Q And relieve pain?

A Yes.

Q And what his blood pressure was before, do you know?

A I asked Dr. Steve Sheppard what his blood pressure was before, and he told me the blood pressure hadn't been taken that morning.

Q I mean, do you know what his blood pressure was normally?

A No, sir, I don't know what his blood pressure was normally.

Q You do not. You would have to know that in order to make a proper comparison with the blood pressure that you got?

- A Well, sir, one-thirty four over seventy eight is considered perfectly normal blood pressure.
- Q I see. Now, did you examine the gluteal reflexes?
- A No, sir.
- Q And will you tell the jury where those are?
- A I don't know where they are. I suppose they are in the buttocks.
- Q You don't know where they are?
- A No, sir.
- Q Well, would you take my word as to where they are?
- A I certainly would, sir. You must have read up on it.
- Q Yes, I read in a book about it. They are in the buttocks.
- A That's right. That's what I said, sir, they are in the buttocks. I wouldn't know how to elicit the gluteal reflex, sir.
- Q You said you didn't know where they are?
- A No, sir. I said they were in the buttocks.
- Q Did you take the spinal reflexes?
- A No, sir.
- Q You did not?
- A No, sir.
- Q Now, did you check for sensory weakness?
- A Sensory weakness, no.
- Q You did not?
- A No, sir.

Q Did you check for the inability of Sam Sheppard to control his bowels or his bladder?

A No, sir, I didn't.

Q You did not?

A Remember, sir, I only saw him for a very short time. At that time his bowels and bladder were perfectly normal.

Q Well, you wouldn't say, Doctor, that the short time that you saw him, that you are competent to give a diagnosis, a medical diagnosis, of what was wrong with Sam Sheppard on the morning of July 4th, would you?

A In the short time I saw Sam Sheppard, sir, I would be very competent in giving a medical diagnosis of what I saw on Sam at that particular time.

Q No. You don't answer my question directly, Doctor. Do you say --

A Are you trying to infer, sir, that I am incompetent?

Q What?

A Are you trying to infer that I am incompetent?

Q No, I am not referring to that. I am referring to this: I didn't say that at all. Certainly I have nothing to say about your competence.

A Thank you, sir.

Q The jury draws their conclusion about you, not me.

I am asking you this question: Do you say that you can give a correct, thorough medical diagnosis of the

condition of Sam Sheppard on the morning of the 4th of July when you saw him?

MR. MAHON: I object, now.

He hasn't said that, your Honor. He said at the time that he examined him, which was around in the afternoon of that day.

THE COURT: Four o'clock, he said.

MR. MAHON: Not in the morning.

MR. CORRIGAN: Four o'clock in the afternoon.

A Do you want me to answer that?

Q What?

A Do you want me to answer?

Q Yes.

A Yes, I can give a competent diagnosis of Sam Sheppard at the time that I saw him.

Q At the time you saw him?

A Yes, which I said, sir, earlier was my impression of the physical disabilities that Sam Sheppard suffered from.

Q He was under sedation?

MR. DANACEAU: We object to that.

He had gone into this.

THE COURT: Yes. He has already

said that he was told --

THE WITNESS:

I was told --

MR. DANACEAU:

Just a minute, sir.

When there is an objection, will you please wait  
until the Court rules?

Q In your opinion, had Sam Sheppard suffered a shock?

A Sam Sheppard may have suffered an earlier shock, sir, but  
at the time I saw him he was not in shock.

Q He was not in shock?

A No, sir.

Q But he was in bed?

A He was in bed.

Q What do you mean by shock?

A Shock, where a patient is cold, clammy and weak, thready  
pulse; the blood pressure may be down; the respirations  
may be rapid, they may be slow; the patient may be dis-  
oriented and the patient can even be unconscious.

Q Does he have to be unconscious to be in shock?

A I say, he may be unconscious, sir.

Q Well, you can be perfectly conscious and have shock?

A Yes, sir.

Q In fact, we are all suffering shock --

A All?

Q All of us are suffering shock right in this court room,  
aren't we

A No, I don't think so. I don't think any of us are suffering



shock.

Q Do we start to suffer shock when we get up in the morning?

A Well, I don't know.

Q Well, what makes a person tired? What makes this jury tired at four o'clock in the afternoon?

MR. DANACEAU: We object to this line of questioning. We might get an answer.

THE COURT: Sustained.

Q What makes the jury tired so that when they get home they are tired at four o'clock in the afternoon?

MR. MAHON: I object to this, if your Honor please.

Q Do you know?

MR. DANACEAU: Just a minute. We object to this line of questioning.

THE COURT: The objection will be sustained.

MR. CORRIGAN: I am talking about shock now, and I have a right to inquire what this man knows about it.

Q What makes a person tired at the end of the day?

A Well, they are just worn out, Mr. Corrigan. They certainly aren't suffering shock.

Q Just worn out?

A Yes.

Q. What is worn out?

MR. DANACEAU: We object to this,  
if the Court please. It's going far afield and  
remote.

MR. CORRIGAN: No, we are not  
going far afield.

THE COURT: I don't believe we  
have that problem here, Mr. Corrigan.

MR. CORRIGAN: What is it, your  
Honor?

THE COURT: I don't believe we  
have that problem here at all.

MR. CORRIGAN: Yes, we have that  
problem here.

THE COURT: Oh, no.

MR. CORRIGAN: We have that problem  
here.

Q. What makes a person tired at the end of the day?

MR. MAHON: Objection.

MR. DANACEAU: I object again.

THE COURT: Objection sustained.

Q. Do you know?

MR. DANACEAU: Object a third  
time.

THE COURT: The objection will

be sustained.

MR. CORRIGAN: Does the Court know?

MR. DANACEAU: Object a fourth time,  
and to this kind of a remark.

THE COURT: The Court knows he  
gets tired.

MR. CORRIGAN: Yes, but why do you  
get tired? Now, let's have some quiet back  
here, will you, gentlemen?

THE COURT: Yes. Let's have  
quiet, please, gentlemen.

MR. CORRIGAN: This is not amusing.

Q Now, I say to you, Docstor, is it a fact that shock is  
constantly going on in the human body?

A No.

Q No?

A No.

Q Well, this is the effect, we do get this effect, do we not:  
That at the conclusion of the day we get tired?

A Yes, you get tired, normally tired, certainly.

Q Even though these people are doing nothing but sitting here  
all day, they get tired?

A That is a normal reaction, Mr. Corrigan.

Q What is it that causes them to get tired?

MR. MAHON: Oh, I object to

this, if your Honor please.

MR. DANACEAU:                      Objection.

THE COURT:                          Objection sustained.

MR. CORRIGAN:                      Don't I have the  
right to go into -- to develop the condition of  
Sam Sheppard in relation to shock through this  
witness and to illustrate it properly to the  
jury?

THE COURT:                          You are in a  
field that we haven't been in at all, and there  
is no evidence of any kind --

MR. CORRIGAN:                      Yes. He says he  
was not in shock.

THE COURT:                          That's right.

MR. CORRIGAN:                      I want to show  
that he was in shock, and I want to show what  
shock is, and I want to find out if this physician  
knows what shock is.

THE COURT:                          He says he was not  
in shock when he saw him.

MR. CORRIGAN:                      What is shock, your  
Honor? Do you know?

MR. DANACEAU:                      We object to this.

THE COURT:                          I have an idea, but  
I am not going to discuss it here because nobody

would believe me, probably.

MR. CORRIGAN: I want to discuss  
it for the benefit of these 12 people.

THE COURT: Oh, no.

MR. CORRIGAN: Well, we certainly  
except to the ruling of the Court.

THE COURT: Well, the Doctor  
says that when he saw Dr. Sam, Dr. Sam was not  
in shock.

MR. CORRIGAN: Well, I certainly  
have a right to go into that question, and I  
have a right to show the jury what shock is  
and to show that, by question and answer, whether  
or not it is a correct conclusion that the Doctor  
came to that he was not in shock. Now, the Court  
is preventing me from doing that, and we certainly  
except strenuously to the action of the Court.

THE COURT: You have a proper  
field, Mr. Corrigan, to question the Doctor  
on his ground for his belief. There is no question  
about that. That isn't the point.

Q Shock, Doctor, is a diminution of nervous energy, isn't it?

A Yes, I suppose it is a diminution of nervous energy for  
the time being.

Q The body is made up of cells, isn't it?

A Yes, sir.

Q We start with one cell in our mother's womb, and then that is increased and increased until we become a full human being, is that correct?

A Yes, sir.

Q And each one of those cells contains a certain amount of what we call nervous energy, for a better word, which is supplied --

THE COURT: His answer is yes.

You will have to answer up so he can hear you.

THE WITNESS: Yes, sir.

Q Which is supplied and kept up by food?

A Yes, sir.

Q The proteins that are transferred into those cells by our food?

A Yes, sir.

Q And by the oxygen that we take into the body?

A That's right.

Q And by rest, by sleep, it is restored?

A Yes.

Q And the exhaustion of that nervous energy in the cells is the shock that the body suffers?

A Well, I suppose it is, yes.

Q Just like these people here are exhausting nervous energy as they sit here?

- A That certainly would be a different kind of shock.
- Q And you are exhausting nervous energy as you sit up on that stand?
- A That's right.
- Q And the more of the nervous energy, of the strength of these cells that is exhausted, the tireder we become, don't we?
- A The more tired you become, that's correct.
- Q And shock may be progressive throughout the day?
- A I think you are confusing, sir.
- Q I am not confusing anything.
- A You are talking about normal individuals, Mr. Corrigan.
- Q What?
- A You are talking about normal individuals in shock as compared to shock from injury.
- Q I will come to that. I want to get the idea to the jury as to what shock is. :It is an exhaustion of nervous energy?
- A Well, I've never heard it put that way, but I suppose it can be.
- Q You never heard it put that way?
- A No, sir.
- Q Did you ever read anything on it?
- A On that particular subject?
- Q Yes.
- A No, sir, I haven't.
- Q Who was the greatest authority on shock?

A. I can't answer that question. I don't know.

Q Did you ever hear of George W. Crile?

A I certainly have.

Q Did you know that he was an authority on shock?

A I'll take your word for it, sir.

Q What?

A I'll take your word for it, sir.

Q Don't you know without taking my word for it?

A I'll still take your word for it, sir.

Q Don't you know that he was the greatest authority on shock in the country?

A I'm glad to hear it, sir.

Q You don't know it?

A I don't know.

Q Don't you know that he wrote many, many books on shock?

A No, I didn't know.

Q What?

A No, sir, I didn't know.

Q Now, then, the exhaustion of nervous energy may come in two ways, may it not, Doctor? It may come suddenly by a blow or it may come gradually through the day so that our nervous energy is exhausted gradually and we get tired and more tired and finally sink into sleep so that the nervous energy is again renewed; do you know that?

A No, sir, I don't.



Q. Did you ever think of that?

A No, sir.

MR. DANACEAU: Object to it.

Just a moment.

THE COURT: He says no.

MR. CORRIGAN: All right.

Q And that that nervous energy may be exhausted in whole or in part by a sudden injury or a blow?

A That whole or sudden --

Q Do you follow me?

A That whole nervous exhaustion -- repeat your question again, will you please, sir?

Q I say, that nervous energy may be exhausted suddenly by a blow instead of it being gradual as I have illustrated?

A I don't think so, no, sir.

Q Well, you know this: That a blow on the -- a sudden blow to a person, a sudden injury to a person may cause that person to immediately collapse?

A That's right.

Q What?

A Yes.

Q And they collapse because there is a draining out of the nervous energy that is in the cells?

A I believe, sir, that you better get a physiologist to answer that question for you.

Q What?

A You better get a physiologist to answer that question.

Q You can't answer it?

A I can't answer the question.

Q What?

A No, sir.

Q You won't answer it?

A No, sir.

Q You can't answer it?

A No, sir.

Q You are not competent to answer it?

A No, no, no, I didn't say that. I am not competent in that particular field, sir.

Q You are not competent in that field?

A No, sir.

Q Then if you are not competent in that field, if you are not competent in the field of shock and you haven't read anything about shock or haven't read what you state to me is a great authority on shock, you still say to this jury that Sam Sheppard was not in shock?

A Yes, sir, I do.

MR. PARRINO: Object to that.

THE COURT: Objection sustained.

MR. PARRINO: Just a moment.

MR. CORRIGAN: That is all.

MR. PARRINO: Are you finished,  
Mr. Corrigan?

MR. CORRIGAN: Yes.

MR. DANACEAU: I will just ask  
one or two questions.

REDIRECT EXAMINATION OF DR. RICHARD HEXTER

By Mr. Danaceau:

Q Dr. Hexter, when you said that when absence of a reflex by  
and of itself did not mean anything to you, do you mean to  
say that you would not examine the patient further?

A No, sir.

Q What did you mean by that, sir?

A I do examine the patient further. Every patient gets a  
thorough physical examination, Mr. Danaceau, and the absence  
of a single reflex doesn't stop me right then and there.

Q In other words, you would go on to examine the patient  
further?

MR. GARMONE: Objection.

MR. DANACEAU: Read the question,  
please.

(Question read by the reporter.)

A From head to foot.

MR. GARMONE: I was going to  
object to the form of the question.

THE COURT:

Well, we will save

time. Let him answer.

A

I do examine each patient, sir.

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ng

Q Now, take this little patient that was -- this hypothetical patient with possible polio that had a nose cold and the absence of one reflex, what further would you have to find before you would diagnose that child as having polio?

MR. GARMONE: Objection.

THE COURT: He may answer that.

A What further would I have to do to diagnose that the patient had polio? Is that your question, sir?

Q Yes, that's it.

A That patient would have to show a rise of temperature; that patient would have to show an increased respiratory rate; that patient would have to show an increased white count; the change in differential count; the patient would have to show an increase of white blood cells in his spinal fluid; that patient would have to show to me pain in one or all of the joints or the muscles of any particular part of the body or any part of the body.

Q And it would be the combination of all those that would enable you to make a diagnosis?

A Yes, sir.

Q Of all those symptoms?

A Yes.

Q And that is what you mean when you say that by the absence of the reflex alone, that does not mean anything to you by and of itself?

A No, sir, it doesn't mean a thing to me, sir.

Q And similarly, the absence of an abdominal reflex or another reflex in Dr. Sam Sheppard, by and of itself, you say, did not mean anything to you?

A By and of itself didn't mean a thing to me.

Q Now, what further symptoms would be required if there was a significant injury to the spinal cord?

A He would have to show paralysis of the muscles. He'd have to show me incontinence of the waste products of the body. He'd have to show me loss of motor function of the extremity or extremities involved.

Q Did he show any of those?

A No, sir.

Q He did not?

A No, sir.

MR. DANACEAU: I believe that  
is all, sir.

MR. CORRIGAN: That is all.  
(Witness excused.)

THE COURT: Ladies and gentlemen  
of the jury, we will now adjourn for the noon  
hour and return at 1:15 this afternoon.

Without any formality we will be dismissed  
until that house.

Please do not discuss the case.

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(Thereupon at 11:55 o'clock a.m. an adjournment was taken to 1:15 o'clock p.m., Monday, November 29, 1954, at which time the following proceedings were had):