

VOIR DIRE EXAMINATION OF JAMES ROGER MANNING

By the Court:

Q Your name is James Roger Manning?

A That's right.

Q You live at 3186 West 86th Street?

A That's right, your Honor.

Q How long have you lived there, Mr. Manning?

A About 13 years.

Q Are you a married man?

A Yes, sir, I am.

Q Have you a family?

A Yes, sir, I have.

Q And what does the family consist of?

A I have three boys.

Q How old are they?

A 13, 10 and 6.

Q And that is the family consisting only of yourself, your wife and three boys?

A That's right.

Q What is your trade or occupation, please?

A I am a real estate salesman.

Q Are you connected with some particular office?

A I am with the Manning-Campbell Realty Company on Lorain Avenue.

Q And where is their office?

A At 9611 Lorain Avenue.

MR. CORRIGAN: Was there another name  
in that?

MR. DANACEAU: Manning-Campbell.

Q Manning-Campbell Realty Company, 9611 Lorain Avenue.

MR. CORRIGAN: Oh, your own name.

Q And I take it that you are the Manning of the firm, are you?

A No, I am not. My brother is the broker.

Q How long have you been associated with the real estate firm?

A Full time since a year ago last May. Then I had a part-time  
license for about two years before that time.

Q And what else did you do before you entered the real estate  
business?

A I was sales manager of Vermillion Foods in Cleveland.

MR. DANACEAU: I didn't get that name.

PROS. JUROR MANNING: It is Vermillion Foods,  
just like the color vermilion.

MR. MAHON: Vermillion Foods?

PROS. JUROR MANNING: That's right, Vermillion  
Foods.

Q What territory does your salesmanship cover, generally  
speaking?

A We usually sell in west Cleveland, Berea, and, well, that is  
our main operation is in west Cleveland. We do work in

Lakewood, Rocky River, North Olmstead, Fairview Park and Berea. We do at the present time have a couple of listings at this time in Bay Village.

MR. CORRIGAN: Have no --

PROS. JUROR MANNING: We do.

THE COURT: He said, "We have a couple of listings at this time in Bay Village."

Q Have you ever served as a juror before?

A No, I haven't.

Q Have you ever been a witness in a case in court before?

A No, I haven't.

Q I take it that you were here a week ago last Monday morning and heard these people -- heard the presentation of these people?

A Yes, I did.

Q To the group?

A Yes, I did.

Q Do you know any of them?

A No, I don't.

Q Do you know the prosecuting attorney, Mr. Cullitan, or any member of his staff?

A No, I don't.

Q Or the Sheriff or any member of his staff?

A No, I don't.

Q Or the Coroner, Dr. Gerber, or any member of his staff?

A No, I don't.

Q And I would like to ask you if any member of your family -- and by "family" I include your wife's, if I may, as well -- is a member of any police department, police officers of any kind, or any law-enforcing agency?

A No.

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

A No.

Q I take it that you heard of this Sheppard matter before? ✓

A Yes, I have.

Q By what means? ✓

A I read about it in the paper, heard it on the radio. ✓

Q Have you discussed it with different people, too, from time to time, or have they discussed it with you? ✓

A It has been discussed at the time. I mean not so much afterwards.

Q As a result of what you read or heard or discussions you have had, whether prompted by you or someone else about the matter, have you formed any opinion as to the guilt or innocence of Sam Sheppard?

A No. You can't.

Q You can't?

A No. You can't form an opinion like that if you don't know

what's going on.

Q So you have no opinion whatever about his guilt or innocence?

A No, I haven't.

Q Do you understand that it is the function of a jury to decide the guilt or innocence of a person charged with crime, and not the function of a Judge or the prosecutors or anybody else?

A Yes, your Honor.

Q And do you understand that you are to do so upon weighing the evidence that is produced from that witness stand where you now sit and not from anything else in the world, but under the rules of law that a Court will give to the jury?

A Yes.

Q And do you understand, also, that you are to weigh evidence on the same basis exactly at the outset?

A Yes, your Honor.

Q Without regard to who gives it; that all people are alike in that witness stand?

A Yes, your Honor.

Q And that the only test, no matter what the person's position or lack of position, the only test is the test of truth. Do you understand that?

A Yes, I do, your Honor.

Q And do you understand also that the fact that a person is here charged, whether by indictment or otherwise, with a

crime, that he is presumed to be innocent, and that the indictment of him raises no presumption whatever of any guilt of anything?

A Yes, your Honor.

Q And that he is not to be found guilty until all the evidence has been heard and the jury are then convinced beyond a reasonable doubt under the rules of law that the evidence is sufficient to find him guilty of the crime charged against him?

A Yes, your Honor, I understand that.

Q And that that burden of proof is not upon the person charged, but is upon the State?

A Yes, your Honor.

Q I will ask you if you have any objection to capital punishment in a proper case?

MR. CORRIGAN: I object. ✓

THE COURT: Overruled.

A No, I haven't, sir, if the crime warrants it.

Q Yes, of course, in a proper case.

A Yes.

Q Have you since the 4th day of July of this year received any communication of any kind by any means from anyone about any matters that could possibly be directed toward the Sheppard case?

A I received that one letter, your Honor, I believe all the

jurors received. I told you about it.

Q Have you got it with you?

A No, I haven't.

Q When did you receive it?

A Wasn't that the Thursday we were called down?

Q Well, that's about the time, probably, and --

A I called you the same day I received it.

3 Q You think it is about the Thursday before you came down here?

A That's right.

Q Now, I will ask you to look at Court's Exhibits A-19, 20 and 21, and having in mind that, of course, that is not your name and address on the envelope, will you examine those and see if they are -- if you can tell whether they are like what you received?

A Yes, this is the same one, your Honor.

Q The same thing that you received?

A It is the same letter. It didn't make any sense to me.

Q Well, it doesn't to anybody else, I don't think.

Do you know who sent you that communication?

A I believe I saw in the paper --

Q But you don't know?

A No, I don't know. Pierce, or somebody like that. I don't know who it is.

Q But you saw some report of someone having sent them this?

A I saw his picture in the paper one day, a couple of days ago.

Q Have you any thought at all that the Sheppard family or any of their friends had anything whatever to do with the sending of that communication?

A No. I'm pretty sure of that from just the type of letter.

Q Well, we can say to you that we know who sent it to you, and the Sheppard family and their friends had no connection whatever with it, so we can forget it, as far as that is concerned.

Would the fact that you received that communication have any bearing at all upon your judgment in the matter?

A Not at all.

Q Not at all?

A No.

Q Have you received any other communication of any kind about the matter?

A No, I haven't, your Honor.

Q First of all, I will say to you that counsel for the State over here and counsel for the defendant over here are seeking one thing and only one here, and that is to empanel an absolutely fair and impartial jury, people who will weigh the evidence under the rules of law that will be stated, and be thoroughly just and fair in arriving at what the facts are. Do you believe that you could sit here with eleven of your fellow-jurors and do that, listen to the evidence carefully and arrive and be perfectly fair in



arriving at your decision?

A I believe I could, your Honor.

MR. MAHON: Does your Honor want  
to proceed at this time?

THE COURT: Oh, it is quarter  
after four. All right. I suppose you would  
prefer to let it go until the morning.

Now, Mr. Manning, you are one of the group  
for the moment, at least, and will you please,  
ladies and gentlemen, be very careful overnight  
to observe the caution which the Court has expressed  
to you?

Do not discuss this case with anyone; do  
not permit anyone to discuss it with you; have  
no communication whatever about it. Just leave  
it right where we are now, and without any  
formality at all, we will be adjourned until  
9:15 tomorrow morning.

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(Thereupon an adjournment was taken to  
9:15 o'clock a.m., October 28, 1954, at which  
time the following proceedings were had):

Morning Session, October 28, 1954.

(Voir Dire Examination of James Roger Manning resumed.)

THE COURT:                    That gentleman is  
Mr. Parrino. He is assistant county prosecuting  
attorney. He would like to put a few questions  
to you.

By Mr. Parrino:

Q        Mr. Manning, if you will permit me to do so, I should like  
to continue with some questioning in addition to those that  
the Court has already asked. You appreciate, of course,  
the purpose of this questioning?

A        I do.

Q        And to satisfy all here present, and to satisfy you, of  
course, that you feel you could be a fair juror, a just  
person in a case of this kind, and we don't have any desire  
to search into your background for any selfish reasons of  
our own. We want to determine of you, as we have determined  
of these other good people, that you possess the qualifica-  
tions established to serve in this case.

I think, Mr. Manning, that you told us yesterday  
that you are in the real estate business at this time, is  
that correct?

A        That's correct.

Q And that you have been for approximately two or three years either part-time or full time?

A That's right.

Q Now, you further stated, I believe, that you -- or your place of business there had some listings in Bay Village, Ohio, is that correct?

A That's correct.

Q Now, have you worked on any of those listings, Mr. Manning?

A I haven't shown any of them, no.

Q How many salesmen are there in your office, approximately?

A Eleven.

Q And you up to this point, at least, have not taken any prospective buyers out to Bay Village to look over any of these properties, is that correct?

A No, I haven't.

Q Now, how many properties are there out in Bay Village that your company has for listing?

A We have one exclusive on Dover Road. Then we have, I believe, two or three open listings. Now, I'm not too sure because I haven't even looked at the houses.

Q Now, do you know whether or not any of those three houses -- whether or not the Sheppard family has any connection with them at all?

A I don't see how they could have. I don't know.

Q I mean, they have no interest in any of those homes, do they?

A No.

Q So far as you know?

A Not as far as I know, no.

Q And, of course, none of the Sheppard family lives in any of those homes, do they?


A No.

Q They don't own any of those homes, do they, so far as you know?

A No.

Q They have no contact or interest in any of those homes, so far as you know; is that your understanding, sir?

A That's right.

Q I believe you told us that you have three children? 

A I have.


Q And do they all attend school? I presume that they do.


A Yes, sir.

Q Do they all attend the same school?

A No.

Q What schools do they attend?

A My oldest boy goes to Trinity School. My 10-year-old boy goes to Clark School, and my youngest boy goes to Christ School. 

Q Have you ever appeared as a witness before in any case? 

A No, I haven't.

Q Have you ever appeared as a juror before in any type of case.

civil or criminal case?

A No.

Q Coming into this courtroom as a juror, from your independent knowledge, reading, and your experiences in life, I am sure that you have a fairly good understanding as to what you will be called upon to perform as a juror in this case, do you not, sir?

A Yes, sir.

Q Now, you appreciate that in a criminal case, or in any type of case, a jury or a juror holds a most important function, a duty to perform; of course you know that?

A I do, sir.

Q And as a citizen in this community, as these other good citizens here, you have been called to come into this courtroom to sit in judgment upon this defendant, is that right?

A That's right.

Q And it is certainly your desire to see to it that this defendant receives a fair and an impartial trial, of course, is it not?

A That's right.

Q And, on the other hand, I am sure that it is also your desire to see to it that the prosecution side of the table, Mr. Mahon, Mr. Danaceau and myself, representing the State of Ohio, -- do you feel that you have a desire to give to

the State of Ohio, also, equal justice, and a fair and impartial trial?

A Yes, sir. That is only fair.

Q Now, coming into this courtroom as a juror, it will be your duty, of course, to sit patiently over what will probably be a rather lengthy period of time to listen to evidence, to both sides of the issue in this case. You appreciate, of course, that there will be a conflict in the evidence in this trial. There will be opinions expressed on one side of the table that may not be shared on the other side of the table, so that as a juror and a member of the jury, you will be in a position to listen to all of the evidence as it is presented in an effort to determine exactly what the facts are in this trial. Will you do that, please?

A Yes, sir.

Q And listening carefully, you will give weight to those facts that you think to be pertinent and significant, and you will not give weight to those facts which you do not think to be pertinent and significant in this trial, is that correct?

A That's correct.

Q Now, after all of the evidence has been completed -- I might say this to you before I come to that:

You might be curious to know the manner in which these proceedings will continue after this moment.

The first order of business, as you can now understand,

of course, is the empaneling of a jury.

Now, after we have completed this episode here, the jury will rise and will be sworn.

Now, after that has been done, then we will make to the jury -- that is to say, our side of the table and Mr. Corrigan's side of the table, will make what is known as an opening statement.

Now, what is said in that opening statement is, of course, not evidence. What the lawyers say to you in opening statement is merely a brief resume of what we expect to show, and of what the defense expects to show, and Judge Blythin, when he states to you that that is not evidence, will you follow his instructions in that regard?

A Yes, sir.

Q Now, after both sides have made their opening statement, then the State of Ohio will present its case, then the defense will present its case, then both sides will present any rebuttal evidence, if they feel that such is necessary.

After that has been completed then Judge Blythin will instruct this jury as to what is the law that applies in this case.

Now, after that has been done, then the case is in the hands of the jury. You have heard the facts, you know the law as Judge Blythin gives it to you, then you will be endowed

with a solemn duty, an important function at arriving at a just verdict in this case. You understand all of that, of course?

A I do, sir.

Q Now, Judge Blythin, certainly, with his vast experience in the law, will state for you in great detail all of the rules of law that apply in this case, and as a juror and as a member of the jury, it will be your important duty to take that law specifically without any reservations, as being the law that applies in this case. Will you do that, please?

A Yes.

Q Now, being involved in the business world, as you are, you undoubtedly have some understanding as to what the law is in some fields. In civil law, I am sure that you have some understanding what the law is that pertains to your business as a real estate salesman, and it is quite probable, though, that you do not have any specific function as to what the law is in a case of first degree murder. That is quite true, is it not, Mr. Manning?

A Yes, that is true.

Q So that in this case it will be very important for you to take the law as Judge Blythin gives it to you, and will you do that?

A I will, sir.



Q Now, in all cases, we, as lawyers, say that Judge Blythin will be the Judge of the law, but the jury is the judge of the facts. In other words, you as a jury will determine what the facts are. What I say the facts are is not of importance to you as a juror. What defense counsel say the facts are is not especially important to you as a juror. Jurors will determine what the facts are for themselves. In other words, I, defense counsel, nor Judge Blythin, himself, can express an opinion to you as to what the facts are. You understand that?

A I understand that, sir.

Q You will determine what the facts are for yourself strictly and solely from that which you hear on the witness stand, from the exhibits that may be offered, from any instruments that may be offered, pictures, objects of various kinds that may be offered by both sides; all of this constitutes the facts or the evidence in the case, and from that the jury will determine exactly what the truth is in this case. You understand that?

A I understand that.

Q You understand further, Mr. Manning, that in any field of life in which we are engaged, in any experiences that we have, that as a person you will judge people and size them up; especially you as a salesman, pretty much that is your business?

A That is right.

Q When you see a person you can determine pretty much first-hand as to what your impressions are as to that person, is that not correct?

A That is correct.

Q So as a person testifies in the witness stand for both sides in this case, as you sit here as a juror, as they testify you will be able to gain some impression as to the truthfulness of what that person states from the demeanor of that person on the witness stand, as to how he acts, as to whether he be sincere, as to whether he be not sincere, as to whether he is forthright, as to whether he may be sluggish or backward in what he says. From these things you, as a juror, may gain certain impressions as to the credibility or truthfulness of that person that speaks. Do you understand that?

A I understand that, sir.

Q Now, if Judge Blythin states to you that that is a way or a standard, the demeanor of the witness is a standard that you as a juror may use in judging the testimony of any witness, will you take the Judge's instructions in that regard and apply them as the witnesses testify in this case? Will you do that, please?

A Yes, sir.

Q Now, Judge Blythin, I am sure, will state to you that there

are several different standards that a jury may use in judging the quality or the weight or the value that they will give to all witnesses in this case.

Now, should Judge Blythin state to you that in judging the weight or value that you will apply to a particular or all witnesses, you may take into consideration the reasonableness of what that person testifies to, the reasonableness of the story that he relates on the witness stand, will you follow his instructions in that regard?

A Yes, sir.

Q And if, as a juror, you and these other people here already in the jury box who may be chosen as jurors -- if you listen to the story of a particular witness and you feel that what that person is saying does not strike you with a reasonable mind, does not strike you as being a reasonable story, will you give less credit to the story of that witness, or will you give less value to it?

6 A It depends on the instructions, I believe.

Q Yes, but if Judge Blythin states to you that in judging the testimony of a witness you may take into account the reasonableness or the lack of reasonableness of what he says, will you do that?

A Yes.

Q And if he states to you that you may take into account in judging a witness' story the probability or the lack of

probability of what he says, will you follow his instructions in that regard?

A Yes, sir.

Q And when he states to you that you may also take into account the interest or the lack of interest that witnesses have in the outcome of this trial, will you take that into account, please?

A Yes, sir.

Q In other words, if there were an automobile collision where there were two persons driving along the highway, their automobiles struck, they went before a magistrate of some kind and both told their stories, you might understand that their stories might be colored to some extent to suit their purposes. It might be a little hard to believe, isn't that correct?

A Yes.

Q They might give themselves the benefit of the doubt, isn't that right?

A That's right.

Q But on the other hand, if there is some person standing there on a corner who doesn't know either one of those persons, who has no interest in the case at all, and comes before this same magistrate and he testifies, it is quite probable that the magistrate would lend a little more credence to what the disinterested person states than what

the parties to the accident might state. You understand that?

A Yes.

Q And the same rule would apply in a case of this kind, of course, so that in judging the testimony of persons who testify, you will take into account, then, the reasonableness of what they say or the unreasonableness of what they say, isn't that correct?

A That's correct.

Q Whether what they say is probable or not probable, you will take that into account, will you not?

A I will.

Q And certainly you will take into account whether or not they have an interest in the case, or whether they do not have an interest in the case, in judging and sizing-up their testimony; will you do that, please?

A Yes.

Q And as I have stated to all of these other jurors that I have had the privilege of speaking to here previously, these standards of judging the testimony of witnesses apply to the State's witnesses; you understand that?

A Yes.

Q They apply to the defense witnesses; you understand that, of course?

A Yes.

Q And they also apply to the defendant, himself; you understand that, of course?

A I understand that.

Q Now, I am sure that during the course of the trial there will be persons testifying from various walks of life. There will be professional people, there will be laymen, there will be doctors, there will be police officers, there will be the Coroner, who is a public servant, there will be various people who testify.

Now, the Court will say to you that in judging the testimony of witnesses you are not to give more value or more credibility to a particular person merely because he has a title as against one who does not have a title.

Now, you understand that?

A I understand that.

Q And should he instruct you in that regard, will you follow his instructions in that respect?

A I will, sir.

Q Now, you might have a situation where, in judging the testimony of two persons, whether they be two doctors or a police officer and a layman who testifies to the same thing, or substantially as to the same thing -- in judging and determining the weight that you will give to the testimony of these two persons who testify as to the same thing, will you take into account the opportunity that both of these

people had to observe what they are speaking about? Do I make myself clear?

A You do, sir.

Q In other words, two persons might testify as to the same point, but as a result of what you hear as a juror, and as a result of what they say, you would come to the opinion that although they are speaking about the same thing, one might be in a position to know a little more about it than the other. You understand that, of course?

A I understand that.

Q So that as a result of one being in a more advantageous position, you would be able to give more credibility to one as you might give as against the other. Isn't that correct, sir?

A That is correct.

Q So you would take into account what they say, how they say it, their position to know that about which they speak, all of these things are important in sizing-up a witness, are they not?

A Yes, they are.

Q Now, the laws in this State, Mr. Manning, are, of course, very fixed relating to capital punishment, and I know that you realize that this is certainly a very important case?

A Yes, sir.

Q It is important to the defendant, of course, and it is

important to the State of Ohio, and it is important to you as an individual as you come into this courtroom because you want to see justice done, isn't that correct?

A That's correct.

Q The laws in Ohio provide, Mr. Manning, that in a case of first-degree murder where a defendant is found guilty of that charge, that if a jury chooses not to exercise mercy or recommend mercy, that the punishment will be death in the electric chair. You know that to be the law, do you not?

A I understand that, yes.

7 Q And the question that I have to ask you is this:

Do you know of any religious beliefs that you might have, or conscientious beliefs that you might possess in your mind, where you could not serve on a jury that might involve the death penalty?

A No, sir, I have not.

Q You feel, sir, that in a proper case that is properly supported by all the facts and evidence, you could enter into a verdict of that kind, do you not?

A Yes, I do, sir.

Q In a case of this kind, Mr. Manning, as I say, there will be a rather substantial mass of evidence produced by both sides, and that evidence will consist of direct evidence, in some instances, and in some instances the evidence will



consist of circumstantial evidence, and Judge Blythin will state to you that in a criminal case, both direct and circumstantial evidence may be considered by a jury in arriving at their verdict. If he states that to you, will you follow his instructions in that regard?

A Yes, sir.

Q You do realize, of course, that circumstantial evidence, in some instances, as I believe Mr. Corrigan previously stated here in the questioning of one of the prospective jurors -- circumstantial evidence, in some instances, may be as convincing, if not more convincing, than direct evidence. Do you appreciate that?

A I do, sir.

Q Now, direct evidence is the result of what a person is able to relate as a result of what he, himself, has seen or heard or felt. That would be direct evidence.

A Yes.

Q Now, circumstantial evidence would be the reasonable inferences that may be shown from proven facts. That is a rather involved statement, and I think that there are many of us who have been practicing law for sometime that don't understand it ourselves, but I think here yesterday there was a Mr. Brown on the jury, and I gave him this brief example of what I think to be circumstantial evidence, and with your permission I will repeat it to you and perhaps

you will get a better understanding of what we are talking about.

Of course, you own an automobile, do you not, Mr. Manning?

A Yes.

Q Now, assume, if you will, please, that some night you park your car in the front of your home, and that as you are in your home you hear the loud screeching of brakes. The next thing you hear is the tremendous crash, so you rush from your home, you look outside and there you see your car. It is no longer in front of your house, it has been pushed for some distance. It has been struck by another vehicle. You see that this other vehicle has set on the ground, say, 50 or 60 feet of skid marks, and that your car is demolished and his car is demolished, and you question this fellow, and you say to him, "What happened here? How come you hit my car?"

He says, "I can't understand it. At the time that I struck your car I was only going about 20 miles per hour."

Now, would you believe that person, sir?

A No, I wouldn't, not from what you state.

Q Now, why is it that you wouldn't believe it?

A There was evidence that didn't substantiate what the outcome was or what the later statement was.

Q There would be evidence that would not substantiate his story?

A His story, that's right.

Q Now, that evidence would consist of the skid marks, isn't that correct?

A That's right.

Q The manner in which your car was moved?

A How far it was moved.

Q Yes. All of those things would certainly, as a reasonable man, indicate to you that, putting it mildly, that he was lying, isn't that correct?

A That's right.

Q Now, you, of course, were in your house watching the television, perhaps; you didn't see it, did you?

A No.

Q There were no other persons that saw it that could describe it to you, but from what you were able to see after it was all over, you could reasonably come to the conclusion that what this person states to you was not a fact, isn't that true?

A That is right.

Q That, in a general way, is what we term circumstantial evidence. You appreciate that, of course?

A I do.

Q Now, will you follow the Judge's instructions as to how

exactly you will apply direct evidence and circumstantial evidence in this case? That is all we can ask. Will you do that, please?

A I will, sir.

Q Now, Mr. Manning, have you ever been a patient, or any member of your family or any friends of yours ever been patients at the Bay View Hospital?

A No, sir.

Q Are you acquainted with anyone that is employed at the Bay View Hospital, so far as you now know?

A No.

Q Now, as a juror in this case, Mr. Manning, you know, of course, that you have a right to your own opinion when you are deliberating at the conclusion of the trial; you know that, of course?

A Yes.

Q And you know that each of the other jurors also have a right to their own opinion. You know that, of course?

A Yes.

Q Now, as you are deliberating in your jury room, you will not have any hesitation to discuss this case freely and openly with other members of the panel, will you?

A No. That is important.

Q Sure. That is one of the most important things in your deliberations, is it not?

A That is right.

Q You to give these people your ideas and for them to give you their ideas, isn't that correct?

A That's correct.

Q And, of course, you have a right to your own ideas, you know that?

A I do.

Q And that you will as a juror listen to what they have to say, and they will listen to what you have to say, and if one of them produces some bit of evidence that you may have forgotten that you think is important and reasonable and probable and logical, you will take and accept what they have to say and perhaps alter your thinking, if you think that that is a reasonable thing to do, will you not?

8 A Yes.

Q As a juror you will not stand by or sit by<sup>in</sup> the jury room and obstinate~~y~~ hold to your own views without any logical reason; you won't take that position, will you, sir?

A No, sir, there is no sense in that.

Q As a member of the panel, you will freely and openly discuss the evidence in this case with a view to arriving at a common verdict in this case, will you do that, please?

A That's right, sir.

Q With a view to arriving at justice in this case, will you do that, please?

A Yes.

Q With a view to arriving at justice to the defendant and to the State, will you do that, please?

A Yes.

Q Now, certainly you know that in any case, a criminal case, especially, it is important, as we have previously discussed, to arrive at your verdict based upon law and upon fact.

Now, will you let your judgment or opinion in this case be affected in any way by prejudice for or against either side in this trial?

A No.

Q Will you let ~~any~~ bias enter into your deliberations at all?

A No.

Q And just as important, just as important, will you permit sympathy for the defendant to enter into your verdict in this case?

A No, that doesn't enter into it.

Q Sympathy for the defendant or members of his family to enter into your verdict in this case?

A No.

Q Do you take this position: That on the basis of law and on the basis of fact, without any feelings of bias, prejudices, sympathy for one side or the other, let your

deliberations be dispassionate?

A Yes, sir.

Q Fair to both sides, and let justice be done; do you take that position?

A I take that position, sir.

Q Thank you very much.

MR. PARRINO: Pass for cause.

THE COURT: That gentleman is  
Mr. Garmone of defense counsel.

By Mr. Garmone:

Q Mr. Manning, you have been asked many questions by Mr. Parrino. He has covered thoroughly most of the important subject matters in an effort to qualify you as a juror in this case.

Now, I would like to ask you a few questions on some of the items that weren't touched upon.

Sam Sheppard sits in this courtroom and faces a charge of first degree murder on the basis of an indictment that was returned by the Grand Jury of this County against him. That indictment incorporates the allegations that constitute first degree murder. The Court will instruct you, Mr. Manning, that, though an indictment was returned, that you are not to create in your mind any presumption of guilt against Sam Sheppard. Now, do you believe in that theory

of the law?

A Yes, I do, sir.

Q Briefly, the facts that bring about an indictment, whether it be in this case or any other criminal case, is the prosecutor, through their witnesses, presents certain evidence. They take into the Grand Jury witnesses to testify to a certain statement of fact. It is a one-sided hearing. Sam Sheppard at no time is afforded an opportunity to tell his side of the story, nor at any time is he given the privilege to present any witnesses to tell or state his side of the issue, so it is a one-sided hearing, and for that reason, the indictment, though you may have a copy of it with you in your jury room during the course of deliberating this matter -- it should at no time be considered as evidence, and his Honor, Judge Blythin, will tell you that that is the law, and you will follow that?

A That's right.

Q Now, the allegations that are set out in the indictment, Mr. Manning, is that Sam Sheppard did unlawfully, purposely and of deliberate, premeditated malice kill his wife, Marylyn Sheppard. That is the brief statement of facts set out in the indictment, which we say constitutes the allegations and apprises this young man of the charge he must face.

Now, Judge Blythin will say to you that each and every



one of those necessary elements set out in the indictment must be proven beyond a reasonable doubt before you can conscientiously return a verdict of guilt. Will you follow those instructions by the Court?

A Yes, sir.

Q Now, in conjunction with the Judge saying that each and every necessary element or things that constitute the indictment having to be proven beyond a reasonable doubt, he will add thereto in his instructions that if the case -- or if the State fails to prove one, two or three by evidence that convinces you beyond a reasonable doubt, it would be incumbent upon you, as a juror, to return a verdict of not guilty. Will you follow those instructions?

A Yes, sir.

Q Or, in reverse, if the State proves one, two or three, and have failed to prove the fourth necessary thing or element contained in that indictment that convinces you beyond a reasonable doubt, that under those circumstances your obligation as a juror, and following the instructions of the Court, you would have to bring in a verdict of not guilty. Do you subscribe to that theory in law?

A I do, sir.

Q Now, when we talk about burden of proof, burden of proof is the degree necessary to sustain the indictment that we were just discussing. That burden of proof throughout

the entire trial rests with the State. It never shifts, never changes. The State -- it is incumbent upon them at all times to convince you beyond a reasonable doubt of this young man's guilt. His Honor, Judge Blythin, will, in his instructions, when he gives you the law that is applicable to the facts that you will hear, will tell you that that is the rule that you are to follow, and will you follow that rule?

9

A Yes, sir.

Q Now, briefly, on a subject that Mr. Parrino touched, and I think he cleared your mind as to what your activities should be, and that is facts. The Court will say to you that the only facts that you are to consider are those facts that you hear in this courtroom. Will you abide by that rule?

A Yes, sir.

Q Because you know and I know that this matter has received a great amount of notoriety by means of newspapers, radio and television, and there will be some curious people who make an effort, if you are chosen as a juror, -- it is only human nature -- to try to strike up a conversation with you, or drop a remark one way or another. That remark may be beneficial to Sam. I don't know. It may be beneficial to the State, they don't know, but should that happen during the course of the period that the facts are

being related to you for your consideration in this courtroom, you won't permit any of that to fall into your subconscious mind, and then at some later point, weave it into the statements that you hear here?

A No, sir.

Q You will take only those facts that you hear in this courtroom?

A That's correct.

Q Now, on the factual side of the picture, you, Mr. Manning, along with the fellow-jurors, are the only judge of the facts. With the authority that Judge Blythin has, he has no right to trespass on that privilege as given to you as a juror, that you have a right to interpret those facts as your conscience directs you. No one can interfere with that right, and will you act accordingly?

A Yes, sir.

Q Now, should there come a time after you have listened to all the facts attentively, after you have accepted the law applicable to the case that Judge Blythin will charge you with, and you come to an abiding conviction in your mind that the State has failed to convince you beyond a reasonable doubt of all those necessary things that they have set out in the indictment that was returned against Sam Sheppard, would you hesitate in expressing your feeling and joining in with your fellow-jurors in a verdict of not guilty in the

case of the State of Ohio versus Sam Sheppard?

A No.

Q Now, after you hear all these facts and correlate the law into the facts that Judge Blythin will give you, and you arrive at the abiding conviction in your mind that the State has failed to convince you beyond a reasonable doubt,

the Court will say that you, as a qualified juror, should not hesitate, and we won't want you to, and we don't want any of these other members to hesitate, to discuss with one another why you feel that you have arrived at that abiding conviction, and why maybe some of these other ladies and gentlemen felt or feel at that time that their interpretation of a certain element of facts or the overall factual picture in some instances does not correspond with yours, you will be willing to listen to their understanding, would you not?

A Definitely.

Q And you would also express your understanding of certain facts to them?

A That's right.

Q Now, after you have this huddle and this talk among one another, and you are still, Mr. Manning, of the opinion or, as a matter of fact, any of you are still of the opinion that the State of Ohio has failed to convince you

beyond a reasonable doubt that each and every necessary element contained in that indictment wasn't proven to your satisfaction, would you remain with the abiding conviction that Sam Sheppard is not guilty of the charge?

A If that was the case, yes.

Q You would do that?

A I would.

Q Now, on the subject of law, the guardian of that phase of the case is Judge Blythin, and will you follow only the law that he gives you and tells you that is applicable in this case?

A Yes, sir.

Q Because, after all, you are a salesman and I am a lawyer, and you know we come in contact with many people, and we sometimes get our own notions of what something should be or what something ought to be, and we may be right.

Now, you won't incorporate anything that may come to your mind what you think the law is or the law ought to be and substitute that for the judgment of Judge Blythin on the law?

A No. The law is as stated.

Q As stated by the Court?

A By the Court.

Q Now, I don't know whether you were asked if you, sometime during the course of the period that you read newspaper

items in this matter, that you expressed an opinion to anyone?

A No, I haven't done that.

Q Was there ever an opinion expressed to you?

A Yes, there have been.

Q And without telling me what the opinion is -- I don't know -- I don't want to know, and I am not entitled to know -- you won't permit that opinion to creep into your mind and become an issue in this case?

A No, sir.

Q You won't permit that opinion to be substituted into the facts that will be given to you from that witness chair, would you?

A No, sir.

Q You will stick to what you hear in this courtroom and nothing more?

A That's right.

10 Q Mr. Parrino went into the subject matter of direct and circumstantial evidence, and he distinguished between the two.

Now, on the question of circumstantial evidence, if the Court instructs you that when reliance for conviction is placed on circumstantial evidence, the facts and circumstances upon which the theory of guilt is placed must be shown beyond a reasonable doubt, and when taken together, that is, all the facts and circumstances, when they are taken

together and put into one basket, must be so convincing as to be inconsistent with the claim of innocence and admit to no other solution -- this entire statement of facts and circumstances shall admit to no other solution than the guilt of the accused, and if Judge Blythin instructs you that that is the theory of law that you are to follow that relates to the element of circumstantial evidence in this case, will you follow that theory of law?

A Yes, sir.

Q In the operation of your daily business prior to your coming down here on the 18th, had you had any business or social contact with any member of the Cleveland police department?

A Sometime ago, last January or February, I think it was, I sold a house to a policeman.

Q Can you tell me what branch of the department he was in? Was he associated with the Detective Bureau?

A I don't know, sir.

Q What was his name, do you recall?

A That is what I am thinking of.

Q It is a little hard to remember --

A I only saw him when I sold him the house just this one day.

THE COURT: Do you recall where the house was?

PROS. JUROR: MANNING: It is down on Bridge Avenue. The name is Musson.

By Mr. Garmone:

Q M-u-s-s-o-n?

A Yes.

Q You don't know whether he is with the Detective Bureau or not, do you?

A I don't know what branch of the service he is in.

Q Well, would the fact that you had this business dealing with him cause you to show any favoritism to any police officers that may be submitted for your consideration in this case?

A I don't know how it could.

Q Now, on that question would you, because a man is a member of the police department, give his testimony more consideration than you would a layman because he is a member of the police department?

A No, sir.

Q You would measure him with the same yardstick, is that right?

A That's right.

Q Now, there was some discussion here by Mr. Parrino, and properly so, about the Coroner's office, the doctors, and people, who would be in a better position to tell you what -- to testify on certain facts that will develop during the trial. Do you feel, Mr. Manning, that because a doctor is connected with the Coroner's office, that his testimony should be given more consideration than a doctor who is not associated with the Coroner's office?



A No, sir.

Q You will measure them with an equal yardstick, is that right?

A That's right.

Q Do you know any doctors that are associated with the office of the Coroner?

A No, sir.

Q Do you know Dr. Gerber?

A No, sir.

Q Dr. Adelson?

A No, sir.

Q Dr. Sunshine or Dr. Chamberlain?

A No, sir.

Q Do you know in that office a young lady whose name is Mary Cowan?

A No, sir.

Q Now, Mr. Manning, you have been asked many questions, and before I conclude with you I would like to deal on one theory of law that hasn't been touched by his Honor, Judge Blythin in his questions, and I don't think Mr. Parrino touched upon it.

Under our system of jurisprudence, the democracy that we enjoy, a man charged with a crime is presumed to be innocent. As Dr. Sheppard sits there, do you afford him that presumption of innocence at this time?

A Yes, sir.

Q Do you look upon him as an innocent man?

A Yes, I do.

Q As he sits here now at this trial table?

MR. MAHON: Objection.

Q Presumed to be innocent man as he sits here now at this trial table?

A Yes, sir.

Q And that that presumption of innocence remains with him until the State of Ohio convinces you beyond a reasonable doubt of his guilt. Do you subscribe to that theory?

A I do, sir.

11 Q Mr. Manning, as a juror in this case, you probably are going to be called upon to accept the responsibility that will not come your way again in your lifetime. You will take your place in this jury box with the other members of this panel, Mr. Lamb, Mr. Bird, Mrs. Foote, Mrs. Borke, Mr. Barrish, and Mr. Verlinger, Mr. Moravec, Mrs. Williams, Mrs. Feuchter, and Mrs. Pelsey, and you will walk into that box with an authority to judge the guilt or innocence of a fellow-citizen. In this case you will take with you a great authority, the right to destroy the life of a fellow human being. Now, I ask you to search your conscience, and do it with a fine comb so that you can satisfy everyone in this courtroom, this young man, the people that represent him,

and the representatives of the State of Ohio, to see if you can tell us any reason that would disqualify you as a juror?

A No, sir.

Q You now feel, after the examination conducted by Judge Blythin, Mr. Parrino and myself, that you can accept this responsibility and be fair and impartial to Sam Sheppard?

A Yes, sir, I can.

Q And fair and impartial to the State of Ohio?

A Yes, sir.

Q Is that right?

A (Witness nods affirmatively.)

MR. GARMONE: Thank you.

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