

Thereupon FRANK J. KOLLARITS, being first
duly sworn, was examined and testified as follows:

EXAMINATION OF PROS. JUROR FRANK J. KOLLARITS

By the Court:

Q Is your name Frank J. Kollarits?

A Kollarits.

Q K-o-l-l-a-r-i-t-s?

A That's correct.

Q And you live at 2773 East 125th Street?

A Correct.

Q Are you a married man, Mr. Kollarits?

A Yes, I am.

Q And have you a family?

A I have two boys.

Q How old are they?

A 11 and 15.

Q They are both in school?

A They are both in school. One is in high school.

Q And how long have you lived on East 125th where you now live?

A 20 years.

Q Are there any other people in your household other than
yourself and wife and two boys?

A Not in my household. I live in a two-family home.

Q Any relatives living in the other suite?

A Mother-in-law and brother-in-law.

Q What is your occupation or business?

A I am a clerk, receiving clerk.

Q Where?

A Harshaw Chemical Company.

Q Where is their place of business? Is that the Harshaw Chemical Company on 97th Street?

A The office is on 97th Street and the plant is on 1000 Harvard.

Q And where do you hold forth?

A I am down at 1000 Harvard.

Q How long have you been with the Harshaw Chemical Company?

A It will be 25 years this coming March.

Q Have you ever served as a juror before?

A No, I haven't, though I have been summoned once.

Q But you were not used?

A No, I was not used. I was down here one day and was excused.

Q And have you ever been a witness in a case in court?

A No, I haven't.

Q I take it that you were here on a week ago last Monday morning when these good people around this table were presented. Do you know any of them?

A No, I do not know any of them.

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

A No, I do not.

Q Or the Sheriff or any member of his staff?

A I don't know anybody in the Sheriff's. There was some deputies down there that worked at our plant at one time, but I don't know them personally.

Q You had no particular connection or social connection with any member of the Sheriff's office?

A That's correct, I do not.

Q And do you know the Coroner, Dr. Gerber, or any members of his staff?

A No, I don't.

Q Do you know any members of your family -- and by your family, we will include your wife's family, too, if we may -- who are members of a police department or any law-enforcing agency anywhere, if you know?

A A newpew of my wife is on the police force.

Q In Cleveland?

A In Cleveland.

Q What is his name?

A Joseph Kish.

Q K-i-s-h?

A That's correct.

Q How long has he been on the police department?

A Just recently. I would guess about a year, year and a half.

Q Do you know what division of the department he is in?

A I don't know. He works out of the -- somewhere around
Fulton Road out of the precinct there.

Q The West Side?

A That's right.

Q How close is your association with him?

A Not very close. We might see each other once or twice a
year.

Q Is he the only person that you can think of?

A He is the only one.

Q Would the fact that he is a member of the police department
of the City of Cleveland, and it happens that probably
there will be a number of policemen testify here, they will
be from the police department of the City of Cleveland --
would that have any bearing at all on your judgment, or
would it embarrass you in any manner?

A No, not whatsoever.

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

A No, not that I know of.

Q I take it that you have heard of this Sheppard case before?

A I have heard of it.

Q And I take it you read newspapers about it?

A I have read it, though I don't read the paper. I look at
the headlines and probably the front page.

Q And you have heard comments on the radio and television?

A I don't listen to the radio. I have heard it on the television. ✓

Q Have you discussed the matter with other people at any time, or other people discussed it with you?

A No, I haven't discussed it with anybody.

Q Have you ever expressed an opinion to anyone about the case?

A No, I did not.

Q Have you, as a result of anything that you have known about it or heard about it or discussed with anyone, have you formed an opinion as to the innocence or guilt of Dr. Sheppard? <

A I have not formed an opinion. <

Q I will ask you if, in a proper case,--I will withdraw that.

Have you any objections to capital punishment? ✓

MR. CORRIGAN: Objection.

THE COURT: Overruled.

MR. CORRIGAN: Exception.

A No, I have not.

Q You understand that it is the function of a jury to listen to the evidence in the case and decide the case, they are the ones and the only ones who can decide whether a person is guilty of a crime or not.

A I understand.

Q And in so doing, they are to listen to all of the testimony, and without regard to who gives it, whether he is a public

official, whether he is a professional man or a common laborer, at the outset to receive that evidence on the same basis precisely without regard to its source and weigh that evidence and put it to one test and one only as to what is true and what is not true.

A I understand.

Q You understand that?

A Yes.

Q And do you understand that it makes no difference whatever at the outset when the testimony comes, whether it comes from a public official, police officer, doctor, or a person of whatever station in life, it is to be weighed on the same basis precisely and only as to what is true and what is not true?

A Yes, I do understand.

Q And do you understand that when we come to apply the principles of law which are to be applied in a case of this kind, any criminal case, that it is the function of the Judge to state those to the jury and the duty of the jury to regard those as stated and to follow precisely those principles? Do you understand that?

A I understand that.

Q Now, the people on both sides of this table, the prosecution on this side and the defense on this side, are asking one thing, and one only, and they are entitled to that: That is

to have a perfectly fair and impartial jury who will weigh the evidence as it comes from this witness stand where you are now sitting and judge it for themselves on the basis that I have stated to you.

Do you believe that you could do that and be absolutely fair and impartial?

A I believe I could.

THE COURT: The State --

MR. DANACEAU: Would you mind asking him if he received a communication?

THE COURT: Oh, yes, indeed.

Q Since the 4th day of July of this year have you received any communication of any kind by any means from anybody that could be directed, at least, toward this case?

A I received the one letter with the two pictures in it. ✓

Q Have you got it with you?

A No. I turned it over to the police department.

Q When did you receive it?

A I don't know the exact date.

Q Roughly when?

A It was on a Thursday.

Q Would that be the Thursday before you came here?

A I believe so.

Q And have you received any other communication of any kind at any time?

A None whatsoever.

Q Now, I will ask you to be kind enough to look at Court's Exhibit A-9 and A-10. Just glance at them and see if you can tell us whether the communication that you received was the same as that.

A It is the same -- identically the same thing.

Q Do you know who sent you that?

A I can't pronounce the name. It is All-A-something.

Q Neither can anybody else, so it is all right. You saw in the paper some report as to who sent it, or did you find it from the communication itself?

A I read the heading on the envelope. I think the last name was Pierce, if I am not mistaken.

Q That is on the outside of the envelope?

A On the outside, and the address on there, Orlando, California -- or Florida.

Q Have you formed at any time any notion or idea that the Sheppard family or any of their friends had anything to do with the sending of that communication?

A No, I never did.

Q Well, the Court will say to you that we know who sent it to you, and the Sheppard family and their friends had absolutely no connection with it, so that you can completely disregard it. Would the fact that you received that communication have any bearing at all on your judgment in this matter?

A None whatsoever. I never read it. I don't know what's in it.

THE COURT: This is Mr. John Mahon,
the assistant County prosecuting attorney. He would
like to put a few questions to you.

EXAMINATION OF PROS. JUROR FRANK J. KOLLARITS

By Mr. Mahon:

Q I believe you said that you had been summoned for jury duty
but never had served?

A That's correct.

Q And how long ago was that?

A That was during the war, I believe about approximately ten
years ago.

Q But you never have actually served as a juror at any time?

A No, I never have.

Q Have you ever been a witness in any kind of a case?

A No, I never have.

Q You have read about this case, though, have you not? ✓

A I have read about it, just the front page, mostly in the
headlines is all I read. I very seldom get around to the
inside of the paper.

Q And did you read about it back around July the 5th?

A No, I didn't read about it at that time.

Q Have you ever read anything about it since you have received
your summons for jury service?

A I read slightly just the front of the paper and the headlines, and that's all.

Q You have heard something or seen something on the television, I believe you said, is that correct?

A News photos on television.

Q Have you had any discussion or has this matter been discussed in your presence at any time?

A No, it has not.

Q Well, from what you did read, what you saw on the television, did you form or express any opinions as to the guilt or innocence of this defendant?

A No. I have not formed no opinion whatsoever.

Q Have you any opinion at this time as to the guilt or innocence of this defendant?

A No, I have not.

Q Is your mind in such shape that you could enter into the trial of this case as a juror with a free, open mind and obtain all of your information right here in this courtroom?

A I have a free, open mind at the present time.

Q How?

A I says I have a free, open mind at the present time.

Q And you would be guided entirely, then, by the evidence that you would get here in this courtroom?

A Yes, I would.

Q Not be influenced in the slightest by anything that you might

have heard or read about this case outside of this courtroom?

A No, I would not be influenced.

Q You understand there will be a number of witnesses who will be called here to testify, and they will take that chair that you now occupy and tell you what they know concerning this case.

Now, there will be policemen who will testify, there will be doctors who will testify, there will be technicians who will testify, there will be public officials, and there will be the average citizen who has no title of any kind, and the jury is going to have to weigh the testimony of all of those witnesses to determine how much credit, credibility they will afford to the testimony of any witness who testifies. You understand that?

A Yes, sir.

Q That is the function of the jury, and the jury should weigh the testimony of the witnesses in the light of whether or not it is truthful testimony regardless of who gives it, whether it is a doctor or a lawyer or a public official of any kind or an average citizen, layman, the jury is to determine what is the truth from each witness individually, regardless of what title they might have. You feel that you can do that?

A I could do that.

Q And just because a police officer might testify, and he

happens to be a police officer, just because of that fact alone you certainly wouldn't give him any greater or less credit to his testimony, would you?

A No, I would not.

Q You would weigh his testimony --

A On an equal --

Q -- to determine whether or not he was telling you the truth?

A That's correct.

Q Is that right?

A That's right.

Q And you would apply that same test to every other witness who testified, is that right?

A That's right.

Q You understand, of course, that the jury is to determine what the facts are in this case, and the jury is to determine that from the evidence that you get here in this courtroom from that witness stand, and no one can interfere with the jury in determining what the facts are.

On the other hand, the law that is involved in this case is given by the Judge who presides here. The Judge will tell the jury what the law is, the law that they are to apply to the evidence in this case, and the jury is bound to follow the Judge's instructions right to the letter. Do you feel that you can do that?

A I feel I could.

Q And even though you might have some idea of your own as to what the law is or should be and that differs from what Judge Blythin tells you the law is, could you set your own opinions aside as to the law and follow the Judge's instructions?

A I would follow the Judge's instructions.

Q I don't know whether I make myself clear or not. I do not mean that the Judge in any way will attempt to interfere with the jury in determining the facts. You understand that?

A I understand that.

Q That is the sole function of the jury. They are supreme in determining the facts.

Now, there will be in this case what we call direct and circumstantial evidence. Do you understand in a general way what direct and circumstantial evidence is?

A I understand in a general way.

130 Q The Judge, when he instructs the jury on the rules of law, he will instruct the jury as to what constitutes direct and circumstantial evidence as he will other phases of the law. For instance, he will tell the jury -- define to them what is meant by first degree murder, what elements are necessary to be proven in order to establish a case of first degree murder, and other phases of the law.

Now, when he instructs you on what is meant by direct

and circumstantial evidence, you will follow the Judge's instructions in that regard, will you?

A I will.

Q Generally, direct evidence is where a witness testifies to something that they see or something that they hear. Generally that is what we mean by direct evidence.

Circumstantial evidence is where the jury might draw inferences from proven facts.

Do you understand what I mean?

A I understand.

Q That, generally, is what circumstantial evidence is, and the Court will go into it, as I say, in his charge to the jury on the rules of law. Have you any particular prejudice of any kind relating to circumstantial evidence?

A No, I don't.

Q The Court will also instruct you as a rule of law in this case that where one is charged with the commission of a crime, where that person enters a plea of not guilty, as has happened in this case, that then the law presumes that the person charged to be innocent until the State of Ohio produces sufficient evidence to convince the minds of the jury of his guilt beyond a reasonable doubt.

Now, if Judge Blythin tells you that is the law, will you follow that instruction?

A I will follow his instructions.

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

A Yes, sir.

Q And you will require that the State of Ohio produce sufficient evidence to convince your mind of his guilt beyond a reasonable doubt before you will vote to convict him, will you?

A I will.

Q You have stated that you are not opposed to capital punishment, is that correct?

A That's correct.

Q And by that I suppose you mean that in a proper case, properly proven, you could join in a verdict in which the penalty would be death?

A That's correct.

Q And I am sure that you realize the seriousness and the importance of a matter of this kind?

A I do.

Q And you realize that as a juror you might be called upon to render a verdict which will take a human life?

A Yes, I understand that.

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

A Yes, I am willing.

Q Well, I might ask you many questions here, sir, and all of

these questions you understand are only in an endeavor to get a jury that can be absolutely fair and just and impartial, not an attempt to pry into your private affairs.

A I understand.

Q You understand that?

A Yes, sir.

Q I am sure that as a juror you would not be influenced in the slightest in this case by any bias, passion or prejudice of any kind, would you?

A No, I would not be influenced by any.

Q You would not be influenced by any sympathy, would you?

A No, I wouldn't.

Q For anyone here?

A No, I would not.

Q You would decide this case on the facts as you get them here in this courtroom and absolutely nothing else, is that right?

A That's correct, on the facts that are presented here.

Q Well, now, I want to ask you to search your own mind and see if there is something that I might not have touched upon which you feel might in some way unduly influence you in this case. Search your own mind. If you can think of any reason at all, however slight it might be, why, you could not be absolutely fair to both the defendant on the one hand, and the State of Ohio on the other. Will you tell us at this time?

A

I feel I could be absolutely fair with both sides.

MR. MAHON: Thank you, sir. We
will pass for cause.

THE COURT: After the recess, will
you be kind enough to take that seat?

MR. DANACEAU: The other side hasn't
examined him yet.

THE COURT: Would you object to
having a little recess now?

MR. GARMONE: We haven't examined him yet.

THE COURT: Oh, yes. I beg your
pardon. You are not to take that seat. You are
to come right back here. The counsel for the
defense also would like to put a few questions to
you, and I overlooked that at the moment.

We will have a few minutes' recess, and
will you folks be very careful in the meantime not
to discuss this case at all, not even among yourselves?
Just leave it right where we are until we get back.

(Thereupon a recess was taken.)

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(AFTER RECESS:)

THE COURT: This is Mr. Corrigan of the defense. He would like to put a few questions to you.

EXAMINATION OF PROSPECTIVE JUROR FRANK J. KOLLARITS:

BY MR. CORRIGAN:

Q Mr. Kollarits, Mr. Petersilge over here and Mr. Garmone and I represent Dr. Sheppard. Do you recognize him?

A From the pictures I have seen, yes.

Q Do you know which man he is?

A Yes, I do.

Q Mr. Mahon talked to you about sympathy, and that you would not extend any sympathy to the defendant. I assume, Mr. Kollarits, that you have the ordinary sympathy that any person has, you feel sorrow for the misfortune of other people?

A That is right.

Q Did you get from his question on that particular subject that we were in Court here looking for sympathy?

A No, I did not.

Q You understand that we are in court not looking for sympathy but looking for justice?

A That is correct.

Q And you believe in our American system of laws?

A I do.

Q And our American idea of justice?

A I do.

Q Now, I didn't get -- do you have a family?

A Yes. I have two boys.

Q How old are the boys?

A 11 and 15.

Q And where did they go to school?

A One goes to Benedictine High and the other one goes to St. Margaret's Parochial School.

Q One is a high school and one is a grade school boy?

A That's right.

Q How long have you been at your present address?

A The last 20 years.

Q Were you born in Cleveland?

A I was born in Pittsburgh.

Q And came to Cleveland when?

A The first time I came to Cleveland was probably around 1919.

Q You were a very young man then?

A Yes, I was a small boy at that time.

Q You were a boy?

A That's right.

Q And you went to school here?

A Well, part of the time.

Q And how old were you when you started to work?

A I started to work when I was 19 years old.

Q With the Harshaw --

A 30 years old, excuse me -- 20 years old, I mean.

Q With the Harshaw Chemical Co.?

A Yes. I started with them in 1930.

Q And you have remained with the same company ever since?

A Ever since then I have been with the same company.

Q What is your occupation at the Harshaw Chemical Co.?

A I am a receiving clerk down there.

Q Are they out around Bedford somewhere?

A No. They are at 1000 Harvard, underneath the Harvard-Denison bridge.

Q Oh, under the bridge, that's right.

Do you live close to where you work?

A No. I live out on the east side near Shaker Square.

Q Off Buckeye?

A That is correct.

Q Now, you say that you have read something about the case in the paper, about the case of Dr. Sheppard, is that correct? ✓

A Yes, I have read some of it. ✓

Q And have you noticed since you have come to the Courthouse here, during the time that you have spent here, during the past two weeks, the great number of newspapermen and ✓
photographers around the halls and in the courtroom?

A I have noticed them around. ✓

Q When you were summoned as a juror, your name appeared in the paper?

A That is right.

Q Was there any conversation with you at that time by anybody?

A No, other than that I didn't read the paper that evening, and I got a telephone call that my name was in the paper. That's all that was said.

Q And who called you?

A I don't recall who it was anymore.

Q Some friend?

A Some friend it was.

Q Where you work, at the Harshaw Chemical Co., do you come in contact with a number of fellow workers?

A I do, a number of them.

Q About how many?

A Well, there's about six or seven down at the particular office I work in.

Q Has there been any discussion in your presence by those other people working in the office about the case?

A There has been some talk about it.

Q Did that take place -- do you eat lunch together, or do you eat in the shop there or the factory?

A Well, I eat lunch by myself.

Q And the discussion that has taken place between your fellow workers has been during the course of the day?

A During the course of the day during working hours.

Q Do you recall that sometimes when they came in the morning they would discuss what had appeared in the paper the night before or the morning paper that they read?

A I believe that is when most of their discussion was, in the morning, what was in the paper.

Q And when they would come to work?

A That's right.

Q And you, in turn, discussed it with them?

A No, I didn't take part in it.

Q Do you subscribe to a newspaper?

A Yes, I do.

Q And what paper?

A That's the Press.

Q The Press is delivered to your house?

A That's correct.

Q And you have read from time to time the articles that appeared in the Press about this case?

A I have read, as I said, the front part of the paper. I seldom get around to the inner pages of the paper.

Q Did you read in your perusal of the newspaper that Dr. Sheppard is accused of having murdered his wife in her bed?

A I don't recall reading that.

Q Well, do you recall reading in the newspaper that his wife was murdered by a number of blows that were rained upon her

head?

A That I recall.

Q And that the murder that was committed against this young woman was a very violent and repulsive murder?

A I recall reading about that, too.

Q You recall reading that?

A Yes.

Q Now, do you recall reading, also, various editorials that appeared on the front page of the Cleveland Press, such as, "Why Isn't Sam Sheppard in Jail"?

A No, I don't believe I read that article.

Q "Why Not Quiz the Chief Suspect"?

A I don't recall reading that article.

Q "Give Him the Third Degree"?

A Or that, either.

Q You don't recall that?

A No.

Q You don't recall those front page editorials?

A I don't recall.

Q Now, when you read about the violence of this murder -- I assume that your wife also reads the paper?

A She very seldom reads the paper, even less than I do. She very seldom reads the paper, even less than I do.

Q How about the boys?

A The boys, they look at the comics, that's about all.

Q They don't get far beyond the comics?

A That's the first thing they read, and they don't go any further.

Q I suppose they are like normal boys, they are interested in the athletics and things of that kind?

A That is correct.

Q Now, since you have been called on the jury, did you pay a little more attention --

A Not particularly.

Q -- due to the fact that you knew that some day you would have to come down to court?

A Not particularly. I didn't pay more attention to it.

Q Were there any remarks when your name appeared in the paper? Of course, your fellow workers knew about it?

A Yes, they knew about it.

Q Were there any remarks made by them?

A Not particularly. They kidded me about it, that's about all.

Q In what way did they kid you?

A I don't recall exactly what it was, but they were kidding me about me getting on the jury, that's about all.

Q Did any of them say that would be quite a thing, to get on the Sheppard jury?

A There might have been some remarks of that sort, I don't recall it.

Q That you would get your picture in the paper, and so forth?

A There was no mention about pictures.

Q Now, during the discussion with your fellow workers, was there any stories told to you?

A No, I haven't taken part in much of the discussion. I don't recall any stories that were given at all, if there was any.

Q What?

A If there was any, I don't recall any.

Q You don't recall them now?

A No, I don't recall any stories.

Q Do you recall whether they made any remarks about Dr. Sheppard?

A No, I don't recall any remarks made. All I know, they discussed it and that's as far as it went.

Q Now, Mr. Kollarits, you realize that I am asking these questions for the purpose of getting your reactions in this particular case where I and these other lawyers have on our hands the obligation of defending a man whose life is in jeopardy; you realize that?

A I understand.

Q So that I wish you would search your mind and see if in the conversations that went on in the factory with your fellow workers there were things talked about that reflected upon Dr. Sheppard and indicated to you that he might be guilty of this crime?

A I don't recall any.

Q You don't recall any?

A I don't recall any, sir.

Q I see. Well, now, did you discuss it with your wife?

A No, I have not.

Q During the day time while we are in court here -- I know this because my wife tells me this -- there have been broadcasts almost hourly of what has been going on here. You see all these people back here. Most of them are newspaper reporters or television or radio men, and they carry the message from the courtroom out to the hall.

Now, has your wife discussed the broadcasts?

A My wife does not listen to the radio.

Q Doesn't she?

A No.

Q Does she look at the television?

A She watches television in the evenings a little bit.

Q And there have been on the television, so I am informed, various television matters concerning this particular case. Have you seen any of those?

A I saw some of the pictures.

Q You saw some of the pictures?

A Yes.

Q And what were those pictures that you saw?

A Oh, just various people out in the hallways.

Q They had a picture of me one day walking across the street.

Did you see that?

A That, I didn't see.

Q I had a girl on my arm.

A I didn't see that.

Q Well, you have seen some of those pictures?

A I have seen them.

Q Now, as you looked at them in your home, your wife looked at them at the same time, and you were perfectly conscious and your wife was conscious of the fact that you were looking at pictures of a case in which you were vitally interested; that is so, isn't it, that you were interested in this case?

A That is right. She saw them.

Q And were any comments made about it?

A There was no comments made about it.

Q Well, your wife surely said something?

A Oh, she might have said that I wasn't in the picture, or something of that sort.

Q What?

A That I wasn't in the picture, something of that sort, but no other comments.

Q Don't worry, she'll see you.

Well, now, when you come home in the evening -- you haven't gone to work during the time that you have been assigned over here, have you?

A No, I haven't.

Q So that your entire time has been spent just waiting around here to get to this moment that we are at now?

A That is correct.

Q And when you got home in the evening, of course, I suppose your wife exhibited the natural curiosity that any wife would exhibit as to what you had been doing all day and what was going on, is that correct?

A Well, now, she never asked me what was going on. The only thing she asked me, whether I was through or not, and I would answer, "I don't know. I can't tell."

Q Now, there have been people who have gone out to Dr. Sheppard's home and have gawked at the home. You have read that in the paper, haven't you?

A I have seen a little bit of that in the paper. ✓

Q In discussing this matter with your fellow workers and with anybody, have there been any who talked to you that had gone out to that house and looked at it?

A No, I don't know of anybody that's gone out there and looked at it.

Q I assume that you have some friends and acquaintances that you have met since you were summoned as a juror?

A That's right. ✓

Q And they knew that you were summoned as a juror, didn't they?

A Yes, they did. ✓

Q They talked to you about it?

indicted for murder in the first degree?

A Yes, I understand that.

Q The highest degree of crime?

A Yes, I understand that.

Q And a verdict of guilty of that degree of crime carries with it the penalty of death unless the jury recommends mercy.

Do you understand that?

A I understand that, also.

Q Now, the law is that an indictment of itself, under our American law, does not raise any presumption of guilt. But generally people take this attitude: That if a person is indicted, there must be something to it, and they kind of forget the old Anglo-Saxon precept of the presumption of innocence and adopt the -- what shall I call it -- the axiom, "Where there is smoke, there is fire."

Now, let me ask you, you understand what I say, don't you?

A Yes, I understand.

Q You know that Sam Sheppard, Dr. Sam Sheppard, is accused of that very repulsive murder of his wife? You know that, don't you?

A Yes.

Q You know that he has been indicted by the Grand Jury?

A Yes.

Q You know that he is sitting here on trial?

A Yes.

Q To be judged by a jury?

A Yes.

Q Do you presume him to be innocent at this time?

A Yes, I do, I presume him to be innocent at this time.

Q And the law is that that presumption of innocence that you have now in your mind goes with him throughout the entire case until the jury retires to their jury room and analyzes the evidence and becomes convinced beyond a reasonable doubt that he committed this murder. Do you subscribe to that?

A Yes, I do.

Q I understand that you had a cousin or a nephew of your wife's who was a police officer of the City of Cleveland.

A A nephew of my wife's.

Q And I understand that you don't have much contact with him, is that correct?

A That is correct, only on special occasions.

Q Is that the son of your wife's sister or brother?

A My wife's brother.

Q What does your wife's brother do?

A He is a foreman, I believe, at Monarch Aluminum.

5 Q The letter that you received in the mail that you told the Court about and that -- did you read it?

A No, I did not.

Q Did you look at it?

A I opened it up and looked at it, saw the pictures, and that's as far as I got.

Q You regarded it as some sort of a crank?

A Yes, I did.

Q You say you gave it to the police?

A That is correct. I called up the Police Department and two detectives came out and picked it up.

Q Do you know who the detectives were?

A No. I failed to get their names.

THE COURT: Did they have any conversation with you about the case when they came out?

PROSP. JUROR KOLLARITS: No, they didn't have no conversation whatsoever about the case.

Q Did they come into the house?

A They came into the house.

Q Did they sit down?

A They sat down for a few minutes.

Q Well, you did talk something to them?

A Well, they read the letter. We didn't talk much. They just read the letter, and they said they'd take it along with them.

Q And there was no discussion about the case?

A There was no discussion about the case.

Q The discussion was confined entirely to the letter?

A That is correct.

Q Mr. Kollarits, the indictment here charges murder in the

first degree, as I stated before, and the charge of murder in the first degree, as set forth in this indictment that has been returned by the Grand Jury, has for its particular purpose notifying the defendant what he is charged with so that he can meet those charges by a proper defense, so he can prepare to meet the charge by bringing in his defense. And the charge is that he unlawfully, purposely and of deliberate and premeditated malice killed his wife, Marilyn.

Now, do you understand all those words?

A I understand.

Q Do you understand what is meant by deliberation?

A I understand that.

Q By purpose?

A I understand that.

Q By premeditation?

A I understand that.

Q If the Court charges you that in order to find him guilty or find anyone guilty of a charge of first degree murder, that all the elements, not some of them, but all the elements must be proven by evidence beyond a reasonable doubt, and that it is not sufficient for the return of a verdict of first degree murder when only some of those elements or some of those things are proven, will you, before you return a verdict of first degree murder in this case, require the prosecution to prove each and every one of those

elements by evidence beyond a reasonable doubt?

A That I will.

Q Now, when an indictment is returned charging first degree murder, it also includes other degrees of murder in other senses; although they only say first degree murder in the indictment, under the law that will include any degree of murder, such as second degree murder, manslaughter or the crimes of assault and battery and assault, and it is just as necessary for the State of Ohio, the prosecution, to prove the elements of each one of those degrees of crime, before they are entitled to a verdict, beyond a reasonable doubt.

Will you require that proof as to second degree murder, manslaughter, assault and battery and assault in this case?

A Yes, I will.

Q Now, Mr. Mahon has talked to you about circumstantial evidence. Do you know Mr. Mahon, by the way?

A No.

Q What?

A No, I don't know him.

Q He is a candidate for Judge, probably will be elected. You haven't run into him around the neighborhood?

57 A No, I haven't.

Q Now, he has talked to you about circumstantial evidence, and you have undoubtedly, Mr. Kollarits, a general idea of what

direct evidence is and what circumstantial evidence is?

A Yes, I have a general idea.

Q Direct evidence is where you see it yourself, looking at it.

A That is correct.

Q Circumstantial evidence is where you draw a conclusion from circumstances that surround a thing.

A Yes.

Q There are certain rules and regulations designed in the law covering the conviction of a person on circumstantial evidence. The Judge said to you, Judge Blythin said to you that you would be the judges of the facts. Do you remember that statement by the Judge, that the jury was the judge of the facts?

A Oh, I remember that.

Q You remember that statement by him?

A I remember that statement, yes.

Q And we distinguish in the trial of a lawsuit such as this between the function of the jury and the function of the Judge, and when he said to you that you were the judges of the facts, did you understand it to mean that you, as a member of the jury, would determine what was true and what was false?

A That is correct.

Q Now, in the determination of the facts, as, for instance, whether the day is fair or the day is cloudy or whether a man

was walking or whether he was standing, and things of that kind, those are facts. You understand that?

A Yes.

Q You are the sole judge of that. In the matter of the law, however, that is within the province of the Judge. For instance, he will define to you what first degree murder is, what second degree murder is, what manslaughter is. He will define to you the rules and regulations by which you shall apply your judgment of the facts. Are you willing to accept his definition of the law as he gives it to you?

A Yes, I would.

Q Not apply any notions of your own?

A No, sir.

Q As to what the law should be?

A No, sir.

Q There are people in this country that do not believe in our laws. You know that, don't you?

A I have heard of it.

Q They subscribe to some foreign ideas of what should be the law. You have heard of that?

A I have heard of that.

Q You subscribe to our American law and believe in it?

A Yes, I do.

Q Now, in charging you and telling you what the law is, and particularly on the question of circumstantial evidence,

if the Court says to you that when reliance for conviction is placed on circumstantial evidence, the facts and the circumstances upon which the theory of guilt is placed must be shown beyond a reasonable doubt, and when taken together, must be so convincing that they are not reconcilable with Sam Sheppard's claim of innocence, and that they admit of no other supposition except Sam Sheppard's guilt --

A I didn't quite understand.

Q I will put it to you again. I want you to understand it.

In the first place, evidence must be produced that convinces your mind beyond a reasonable doubt. You understand that?

A Yes, I understand.

Q That applies to whether the evidence is direct or whether it is circumstantial evidence.

A That's right.

Q But when reliance is placed upon circumstantial evidence, the facts and circumstances when all taken together must be so convincing that they point to no other thing except the defendant's guilt.

A That is right.

Q And taken together, they must be such that they cannot be reconciled with the defendant's claim of innocence. Do you understand that?

A I understand.

Q And the facts and circumstances all taken together must be such, of such force and power and of such convincing nature that they admit of no other situation except that he is guilty. Now, do you understand that?

A Yes.

Q And if that law is charged, not exactly in the language that I give you now but in the general substance of what I have given you, will you apply that law in this particular case and follow that law?

A I would.

Q Now, we have a situation here where you will have a conflict of testimony, one side from the other. We may have police officers testify, and some of their testimony may be contradicted by the testimony of ordinary people who are not police officers. Would you give more weight to the testimony of a police officer than you would to an ordinary citizen?

A No, I would not.

Q You would not?

A No.

Q And we will have doctors from the coroner's office, probably the coroner himself, who is a public official, and we will have doctors maybe that will contradict some things that the officials say. Would you give more weight to doctors from the coroner's office, or the coroner, than you would to doctors that we would bring here?

A No, I would not.

Q Dr. Sheppard is a Doctor of Osteopathy. Some medical men have a degree of M.D., Medical Doctor, and some medical men have a degree of O.D. -- what is it, O.D. or D.O.?

MR. GARMONE: D.O.

MR. DANACEAU: D.O.

Q (Continuing) D.O., Doctor of Osteopathy. Do you know anything about the distinction between the two?

A No, I don't know the distinction between the two.

Q And if a Doctor of Osteopathy testifies and you find that he is a competent medical man, you would give his testimony the same weight you would to a man who had a degree of M.D.?

A I would.

Q Now, in the articles that you have read in the newspapers -- have you read them during the past two weeks?

A Oh, scantily; I have read some.

Q Well, the Press was still delivered to your home while you were a juror?

A Yes.

Q Did you see an article, a front page article, in the Cleveland Press last Saturday that was over the top of the page, and it said, "Who Will Speak for Marilyn"? Do you remember that?

A No, I did not read it. I was not home all week, during the week, and I didn't read any of the weekend papers.

Q You did not read that article?

A No.

Q Well, in the reading of the papers over a period of time, did you come across the name of a young lady named Susan Hayes?

A Yes, I did.

Q You read about that?

A I read about it.

Q And did you discover in the reading of that that Susan had made some revelations to a newspaper reporter that was later published and broadcast, that she had some intimacies with Sam Sheppard?

A Yes, I did.

Q Does that prejudice you in any way?

A Not whatsoever.

Q Now, Mr. Kollarits, if you are accepted as a juror, will you decide the case of my client, Sam Sheppard, solely on what you hear in this courtroom?

A Yes, I will, solely on that.

Q Will you allow anybody to talk to you or influence you?

A No, I would not.

Q Your wife or friends or fellow workers or anybody else?

A No one.

Q Will you pay any attention to what is published in newspapers about this case?

A No, I would not.

Q You know that you will know more, if you are on this jury, you will know more about this case than anybody in the world except your fellow jurors and the people in this courtroom; you know that, don't you?

A I know that.

Q And that what appears in the newspapers and on the radio and the television are just excerpts of what occurs in this courtroom; you know that, don't you?

A I know that.

Q They pick out the sensational things and emphasize them.

A That is right.

Q Will you allow anybody to talk to you at all about this case?

A No, I would not.

Q Now, I have asked you quite a number of questions, Mr. Kollarits, haven't I?

A Yes.

Q And Mr. Mahon has asked you quite a number of questions, and the Judge has asked you questions.

A Yes.

Q It is probably the first time in your life that you had such a going over.

A Beg pardon?

Q It is probably the first time in your life that you had such a going over.

A That is correct.

Q Now, even though we ask these questions in an attempt to determine whether you will be a fair and impartial juror, something may occur to you that I haven't asked about or no one else has asked about. Has anything occurred to you from the beginning of this case, from the time you first talked about it, from your association or from your time down here in the Courthouse, from the time you have come on this stand, that occurs to you that you would like to state would interfere in any way with your judgment in this case?

A No, I would not. I gave it great thought, and I found out I couldn't find anything.

MR. CORRIGAN: If that is so, we pass for cause, your Honor.

MR. PARRINO: He didn't hear you.

MR. CORRIGAN: We pass for cause, your Honor.

THE COURT: All right. Mr. Kollarits, will you be kind enough, after the noon hour, to take that vacant chair between those last two people over there?

We will now recess for the noon hour and we will return here at 1:15 this afternoon. And will you please, in the meantime, be careful not to discuss

this case nor any matter connected with it in any way, shape or manner with anyone?

Without any formality at all, we will adjourn until 1:15 this afternoon.

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

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