

Thereupon JAMES C. BIRD, being first duly sworn, was examined and testified as follows:

EXAMINATION OF PROSPECTIVE JUROR JAMES C. BIRD:

BY THE COURT:

Q Your name is James C. Bird? ✓

A Yes.

Q And you live at 1956 Green Road?

A Yes, sir.

Q That would be in the City of Cleveland?

A The City of Cleveland, yes, sir.

Q And are you a married man?

A I am, sir.

Q And do you have a family?

A I have one child, sir.

Q How old is that child, and man or woman?

A It is a son and he is six years old.

Q Six?

A Yes, sir.

Q One son six years old. How long have you lived on Green Road where you now live?

A Since February of 1950.

Q Just generally where did you live before that?

A I lived over off Shaker Square on Milverton Road.

Q And what is your occupation or profession, Mr. Bird?

A I am now cashier at the ticket office for Cleveland Terminal Company.

MR. CORRIGAN: Cleveland what?

PROSP. JUROR BIRD: Cleveland Union
Terminal Company.

Q You say you are in charge of the ticket office?

A I am cashier, sir.

Q Cashier at the ticket office of the Cleveland Union Terminal Company?

A Yes.

Q How long have you been so employed?

A I have been there since April of 1945.

Q Have you ever been a juror before?

A No, sir.

Q Ever been a witness in a case of any kind?

A No, sir.

Q You heard who these gentlemen around this trial table were when you were here a week ago last Monday morning. Do you know any of them?

A I have sold Mr. Parrino tickets at the ticket office.

Q You have what?

A I have sold Mr. Parrino transportation at the ticket office in performing my duty. I have met him there.

Q Is your connection or association with Mr. Parrino confined to just your business over the ticket window?

A That is all I have ever known him, sir, personally.

Q You have never known him otherwise?

A No, sir. If I might state --

Q I take it that the fact that he is your customer -- you must have a lot of them -- and that wouldn't particularly affect your judgment in the case?

A It would not, no, sir.

MR. CORRIGAN: He wanted to say something else.

A As I was just going to say, that I have sold Mr. Parrino tickets, several times, I believe. Probably the last time was two years ago. I think it was on a trip to New York, if I am right.

Q You have not had any business transactions with him recently?

A Not recently, no, sir.

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

A I do not.

Q The sheriff or any member of his staff?

A No, sir.

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

A No, sir.

Q Are there any members of your family -- and by your family I would like to include your wife's as well -- who are

members of any Police Department or law-enforcing agency anywhere, as far as you know?

31 A No.

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

A No, sir.

Q You understand, do you, Mr. Bird, that it is the function of a jury in a case of this kind to decide the entire issue of fact?

A Yes, sir.

Q The jury determines whether a person is guilty or not guilty, who is charged with crime, and that the Judge, Prosecutor and counsel for the defense have absolutely nothing to do with actually making that decision?

A I do, sir.

Q That it is for the jury exclusively?

A Yes, sir.

Q And that they do so after considering and weighing all of the evidence, no matter where it comes from, whether it is from a doctor or lawyer, police officer, professional man, public official or common laborer?

A Yes, sir.

Q And they are to weigh the evidence on the same basis precisely, without regard to its source, and the one test is what is true and what isn't true and no other test; you understand

that, do you?

A Yes, sir.

Q And it is to be weighed in accordance with the rules applicable as they will be stated to the jury by the Court.

Now, I have a general question based on that to put to you. Could you sit here and listen to the evidence and weigh it on that basis, fairly and impartially, and be guided by it and by the instructions of the Court as to the law in arriving at your conclusion?

A I could, sir.

Q Have you heard of this case before? ✓

A Yes, sir, I have, sir. ✓

Q By what means, generally? ✓

A The newspaper, sir. ✓

Q And have you heard radio comments? ✓

A I have heard very few, sir. I work from four to one o'clock in the morning and don't listen to the radio or television very often.

Q And have you discussed it with others or others discussed it with you? ✓

A Not recently, sir. ✓

Q Not what? ✓

A Not recently.

Q Well, let's take at any time. To what extent, if any, have you had discussions from time to time?

A I, myself, have not discussed it. I have heard the discussion in my place of employment.

Q Have you formed any opinion?

A I have not, sir.

Q As to Dr. Sheppard's guilt or innocence?

A No, sir.

Q Have you ever expressed any opinion to anybody?

A No, sir.

Q Have you any objection in a proper case, as the case will be defined to you by the Court, have you any objection in a proper case to capital punishment?

MR. CORRIGAN: Objection.

A I have none, sir.

THE COURT: Overruled and exception.

Q Have you, Mr. Bird, since the 4th day of July of this year, received any communication of any kind that could possibly have any relation to the matters here involved?

A I have, sir.

Q What did you receive?

A I received a letter in the mail probably a week ago last Thursday, I think was the date, sir.

Q Have you got it with you?

A I have, sir.

Q Could we see it, please?

((Prosp. Juror Bird hands document to the Court.))

THE COURT:

It is exactly the same.

Do you want this introduced?

MR. CORRIGAN:

marked.

Yes, I would like it

(Court's Exhibit A-19,
A-20 and A-21 were marked
for identification.)

Q Do you know, Mr. Bird, who sent you that communication?

A I do not, sir.

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

A No, sir.

Q The Court will say to you that we know who sent it to you. The Sheppard family and their friends had absolutely nothing to do with it, it has no connection with them whatever.

Does the fact that you have received that communication affect you in any manner or would it affect your judgment in this case?

A It would not, sir. I didn't read or -- all I did was I saw a picture and closed it up.

Q Is that the only communication that you have received?

A Yes, sir.

Q And do you believe that on the basis of what little you have heard you could be a perfectly fair and impartial juror here?

A I do, sir.

MR. PARRINO: If the Court please, before Mr. Mahon gets to his questioning, I should like to direct another thought to the Court's attention. If I am not mistaken, I believe that Mr. Bird is acquainted with one of my brothers, if I am not mistaken. The Court might inquire into that.

THE COURT: All right. If he is, that would be serious and --

PROSP. JUROR BIRD: I'm sorry, I forgot that.

BY THE COURT:

Q All right. You know Mr. Parrino's brother?

A Mr. Nick Parrino, yes, sir.

Q You what?

A Mr. Nick Parrino.

Q I don't know him. What is his business, if you know?

A I think that he is a photographer with one of the oil companies in New York, sir. I don't know the company.

Q Just generally -- we are not seeking to pry into your private affairs, we just want to know generally -- what has been your acquaintance in connection with him?

A I knew Mr. Nick Parrino in Egypt in 1942 and 1943 while I was with the Air Force, and that time he was with the

Office of War Information as their chief photographer there. And I saw him probably four or five times in my tour of Service there in the Middle East in a year's time. Since returning from the Service I think I have seen him probably three times at the ticket office when he was buying transportation to and from New York City.

Q Just a business connection?

A Since that time, yes, sir.

Q You have had no social connection since you left the Army?

A I have not, sir.

Q And would the fact that you know Mr. Parrino's brother have any bearing at all upon your judgment in this case?

A It would not, sir.

Q And you won't hold it against the other Parrino that he is a brother of this man?

A I will not.

MR. PARRINO: Thank you, your Honor.

THE COURT: That is Mr. Mahon,

Assistant County Prosecuting Attorney. He would like to put a few questions to you.

EXAMINATION OF PROSPECTIVE JUROR JAMES C. BIRD:

BY MR. MAHON:

Q Mr. Bird, you understand from these questions, those that have been directed by the Judge and those that I will now ask

you and also that counsel for the defendant will ask you, they are not for the purpose of prying into your private affairs at all?

A I understand.

Q It is only an endeavor to obtain a jury here that can be fair and impartial.

A Yes, sir.

Q You have stated that you have read some accounts in the newspapers concerning this matter? ✓

A A few, yes, sir, I did.

Q And you heard some comments on the radio?

A Very few, sir.

Q And you have been present when there has been some discussion about this matter?

A Not recently, but --

Q Well, since July 4th you have been present when there has been some discussion? ✓

A Yes, sir.

Q Have you been present at any discussion since you have been summoned as a juror in this action?

A No, sir.

Q And where did those discussions take place that you were present at?

A As I stated, at my place of employment, at the ticket office at the Terminal.

Q And were there opinions expressed by various people regarding this matter?

A I know of no opinions expressed. I can't remember any.

Q Did you take part in the discussion?

A No, sir.

Q Or from what you have read and whatever comments you have heard on the radio and whatever comments were made in these discussions that you were present in, did you form any opinion --

A I did not.

Q -- as to the guilt or innocence of this defendant?

A No, sir.

Q Have you an opinion at the present time as to the guilt or innocence of Sam Sheppard?

A No, sir.

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

A It is, sir.

Q You would not be influenced in the slightest by anything that took place outside of this courtroom?

A No, sir.

Q You know, it is the function of the jury to determine the facts.

A Yes, sir.

Q And the jury should determine the facts from first-hand information. You understand that?

A Yes, sir.

Q And the facts in this case should be determined from the testimony of the witnesses who will testify from that witness stand that you are now seated in.

A Yes, sir.

Q Plus any physical exhibits that might be introduced or might be admitted into evidence in this case.

A Yes, sir.

Q And it is solely from that alone that the jury is to determine what the true facts are in this case.

A Yes, sir.

Q Do you feel that as a juror you could do that?

A Yes, sir.

Q Be guided entirely by that in determining the facts in this case?

A Yes, sir.

Q And as the various witnesses take the stand to testify, you will have witnesses from various walks of life who will testify. You will have doctors, technicians, you will have police officers and maybe other professions. Also you will have just the ordinary layman who has no profession or no title. There may be some public officials, also, that will testify in this case. And it will be the duty of the jury to

weigh the testimony of every witness who testifies.

A Yes, sir.

Q And to determine the weight and credibility that they will afford any witness who testifies, regardless of what their rank in life may be. The jury will have a right to believe or disbelieve all or any part of the testimony of any witness who testifies regardless of rank. You understand that?

A Yes, sir.

Q And in determining the weight and credibility that you will afford to any witness who testifies, you have the right to apply certain tests: Your experiences in life, and the Court will instruct you that you have a right to consider the frankness or lack of frankness of a witness who testifies; the probability or improbability of the story the witness tells on the witness stand; the interest that any witness might have in the outcome of this case; the reasonableness or the unreasonableness of the story of any witness and, in fact, you might apply any test that you ordinarily do in your private life in determining whether or not a person is telling you the truth.

Now, if the Court tells you that you have a right to do that, and that it is your duty to weigh the testimony and to give credit to those witnesses whose testimony is entitled to credit, will you follow that rule and apply those various

tests?

A I will, sir.

Q Now, his Honor, Judge Blythin, will instruct the Jury on the rules of law that are to apply in this case, and it is the duty of the jury to follow the Judge's instructions right to the letter, whether you agree with him or not. Do you feel that you can do that?

A Yes, sir.

Q You know, there are times when people have their own notions as to what the law is or what the law should be. Sometimes they are right about it and sometimes they are not right about it. But sitting as a jury, there is one person in the trial of this case who will state what the law is, and everyone is bound to follow that law that the Court tells them. Do you feel that you can do that?

A Yes, sir.

Q And you will do that?

A Yes, sir.

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

A I have, sir.

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

A Yes, sir.

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

A Yes, sir.

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

A I do, sir.

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

A Yes, sir.

Q We will have in this case what we call direct and circumstantial evidence. Generally you know what those terms mean, do you?

A Generally, yes, sir.

Q Direct evidence: When a witness testifies direct evidence, he testifies as to something that he might see or that he might hear. That is an example of what direct evidence is.

Circumstantial evidence is where you might draw reasonable inferences from proven facts. You understand that?

A Yes, sir.

Q And the Court will define to the jury what circumstantial evidence is and what direct evidence is. And will you follow the Judge's instructions in respect to that?

A Yes, sir.

Q You understand, or do you understand that under the laws of this state and this country, practically every state, that

one who is charged with the commission of a crime and enters a plea of not guilty to that charge is presumed to be innocent until proven guilty by evidence that convinces the jury of his guilt beyond a reasonable doubt?

A I understand that, yes, sir.

Q And so as this trial opens, right at this moment can you afford this defendant that presumption of innocence?

A I can, 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 render a verdict of guilty in this case?

A I would, sir.

Q Well, now, searching your own mind, Mr. Bird, can you think of any reason at all why you could not be absolutely fair and just and impartial as a juror in this case?

A No, sir.

Q I am sure you would not be influenced by any bias or passion or prejudice or sympathy for anyone concerned here, would you?

A Not at all, sir.

Q You would decide this case on the facts as you get them from that witness stand and absolutely nothing else?

A That is correct, yes, sir.

MR. MAHON:

Thank you, sir. We

pass for cause.

EXAMINATION OF PROSPECTIVE JUROR JAMES C. BIRD:

BY MR. CORRIGAN:

Q Mr. Bird, where did you live before you went in the Army?

A My home is in Beckley, West Virginia.

Q Where?

A Beckley, West Virginia.

Q Beckley?

A Yes, sir.

Q Where is that?

A That is 75 miles south of Charleston on Route 21, near the Virginia border.

Q Charleston is the state capitol?

A State capitol, yes, sir.

Q And your home was 75 miles --

A South.

Q -- south of that?

A Yes, sir.

Q Toward the Blue Ridge Mountains?

A In the Alleghenies, yes, sir.

Q Where?

A In the Alleghenies.

Q And what did you do there, Mr. Bird?

A I was a school teacher, sir.

Q And how long were you a school teacher?

A Five years.

Q And what grades did you teach?

A I taught starting with the first year. I taught a one-room school, all eight grades. The second, third and fourth years I taught the fourth and fifth grade English and arithmetic, and the fifth year I taught high school English.

Q Was that in a rural district?

A The last year was a rural high school, yes, sir.

Q Now, did you go into the Army from that point?

A From West Virginia, yes, sir.

Q And after that you came here to Cleveland?

A I did, sir. I made Cleveland my home. I came and made my home here.

Q Was that your first occupation here, with the Cleveland Terminal?

A The first and only one, yes, sir.

Q Now, let me see, you say you are a cashier?

A Yes, sir.

Q Do you occupy a position in that sort of a rotunda there?

A In the back, sir. There is a separate office for --

Q You don't need to lean forward on that.

A There is a separate office for the cashier. It is in the back and away from the main ticket office.

Q Well, in the cashier's office, do you come in contact with the

general public?

A Not now, no, sir. I have only been the cashier there for approximately two years. Prior to that time I was a general ticket seller. I had my position at the window for about six years or so.

Q And the cashiers and the ticket sellers, do they work for all the railroads?

A We work for the four roads that use the Terminal facilities, yes, sir.

Q Now, I am just wondering how you got in touch with Mr. Parrino, being in the rear room.

A At that time, Mr. Corrigan, I think I was at the front window. I was not a cashier at that time. At that time, I was a ticket seller.

Q And your only contact with him was selling him tickets?

A That is correct, sir.

Q And did he introduce himself, or how did you get acquainted with him?

A His brother, Nick Parrino, introduced him to me.

Q And that is your only acquaintance with the Parrino family?

A It is, sir.

Q You might have sold tickets to me at times?

A I might have.

Q Or to anybody here in the room?

A That is correct.

Q But that stands out, the fact that you know Mr. Parrino as the only person in the room.

Did you go to college, Mr. Bird?

A I did, sir.

Q Where?

A I went to two schools. I went to West Virginia University.

Q Where?

A West Virginia University, and I graduated from a teachers' college in southeastern West Virginia in 1935.

Q Well, now, you are familiar with the Constitution of the United States, are you not?

A I am, sir.

Q Which provides that any person charged with a crime shall be indicted by the Grand Jury and shall be tried by a fair and impartial jury?

A Yes, sir.

Q You know that?

A Yes, sir.

Q So that we are putting into effect in this courtroom the Constitution of the United States; you understand that, don't you?

A I do, sir.

Q Now, I don't suppose that your acquaintance with Mr. Parrino or Mr. Parrino's brother would sway you one way or another in this matter?

A It would not, Mr. Corrigan.

Q Now, you know, Mr. Bird, that there has been a tremendous amount of publicity about this lawsuit, about this case of the State versus Dr. Sheppard? ✓

A There has, yes, sir. ✓

Q And you have been conscious of that since you have come here and waited to be called in to be examined? ✓

A I have, yes, sir. ✓

Q You have seen the photographers around? ✓

A Yes, sir.

Q Was your picture taken as you came in? ✓

A Not as I came in, no, sir. In the back room it was at one time, I think. ✓

Q And you have seen the pictures of the other jurors that have been called in, those that have been excused and those that sit in the box, you have seen those pictures in the paper, haven't you? ✓

A Some of them, yes, sir.

Q Did you see the interviews that were printed in the papers about people that had been excused from this jury box?

A No, sir, I did not.

Q You didn't read those?

A No, sir.

Q Have you read the papers in regard to this case since you have been called down here?

A I have scanned the headlines, Mr. Corrigan, but I have not read the body of the news stories. I haven't read those. I have scanned the headlines. ✓

Q But you haven't gone into the details of the newspapers that have been writing about this case?

A No, sir.

Q I assume that you read all the newspapers, don't you?

A I take the Plain Dealer at home and I read mostly the front page, as you might say, then to the comic section and then the sports, to see what the sports has. ✓

Q You go from the comic section to the sports?

A Yes, sir.

Q Well, the place where you work and with the fact that you know all this publicity -- and you couldn't escape it unless you were deaf, dumb and blind, could you? ✓

A That's right, I could not. ✓

Q There are how many people work with you? ✓

A I think at the moment, sir, there are 123 or 24, of which I come in contact with about 35 or 40. ✓

Q Your hours are what?

A My hours are from four in the afternoon until one in the morning.

Q Is that continuous, all the time?

A Continuous, five days a week, yes, sir.

Q You don't change onto the day shift?

A No, sir.

Q And you come in contact with 35 men and women?

A Roughly.

Q Are they mostly men or about equally divided?

A On the night shift, Mr. Corrigan, there are, I would say, 40 per cent men, 60 per cent women.

Q Well, now, going back to July, the beginning of July, July 4th, when this publicity started about Dr. Sheppard and kept up all through July and August and September, even down to the present day, did you run into anybody that knew anything factual about the case?

A Nobody, sir.

Q Nobody that would possibly be a witness in this case?

A No, sir.

Q Nobody that told you that they had some information about this case?

A Nobody, sir.

Q Are there any people from Bay Village working in there in your department, do you know?

A No, I am sure there are none.

Q Do you have any connection or association with Bay Village in any way?

A No, sir.

Q Any friends out there?

A No, sir.

Q Or did you visit out there?

A No, sir.

Q Do you know anything about Bay View Hospital?

A Nothing whatsoever, sir.

Q Or about the Sheppard family and the Doctors Sheppard?

There are four of them, three in addition to Sam.

A No, sir.

Q Now, of course, your mind isn't blank, any more than mine is, when you read something in the paper you get some impression, don't you? ✓

A Normally you do, yes, sir. ✓

Q And did you read the editorials in the Cleveland Press that were headed, "Bring him in, Quiz the Top Suspect, Somebody is Getting Away with Murder"? And did you see a cartoon in the Cleveland Press with lawyers and the family holding a shield up in front of Sam Sheppard?

A I did not, sir.

Q Did you read those editorials?

A No, sir.

Q You don't remember them?

A I don't read the Press, sir. ✓

Q You don't read the Press? ✓

A No, sir. If I read an evening newspaper, it's the News. ✓

Q What?

A If I read an evening newspaper, it's the Cleveland News.

Q Well, you saw a great many pictures in the paper?

A Yes, sir, I did.

Q Did you look at them?

A Yes, sir.

Q Did you ever see a picture -- was there a picture ever circulated down around the Terminal Tower or the Terminal Station of the murdered body of Marilyn Sheppard?

A No, sir.

Q Did you ever hear of that?

A No, I did not.

Q Now, in the discussions of this, was it quite a topic of conversation among the men and women that you were associated with?

A No, it hasn't been quite a topic of conversation, Mr. Corrigan. Probably in a slack moment in the office somebody might have mentioned it, somebody else might have remarked something. I can't remember the exact situation, but it's not a general topic of conversation there. Normally we are too busy to do much talking.

Q Sometimes we get impressions sort of subconsciously from what we hear around us and what people say, and so forth. You know that, don't you?

A That's a fact, yes, sir.

Q And you feel now that you have come into this courtroom, regardless of this great publicity and the fact that there are

a lot of reporters and photographers around here, without any impression at all as to the innocence or guilt of Dr. Sam Sheppard?

A Yes, sir.

Q What?

A I have no impressions one way or the other.

Q And you could sit on that jury and be the kind of a juror that you would want your brother to have or your sister to have or yourself to have?

A Yes, sir.

Q If you were on trial in a case like this, is that correct?

A I would, sir.

Q Now, let me put this to you: The Constitution provides that before a man can be put on trial, he must be indicted by the Grand Jury, and the purpose of the indictment by the Grand Jury is to tell him, to apprise him of what charge is being made against him, and that is all it means. Under the law, the indictment does not raise any presumption that he committed the crime, but under the law he is presumed to be guiltless of the crime until the State proves his guilt beyond a reasonable doubt. Now, do you subscribe to that?

A I do, sir.

Q And do you presume this man to be innocent at this time?

A I do, sir.

Q In reading the papers, did you notice that Marilyn Sheppard,

his wife, died in her bed in her home as a result of numerous blows that were rained upon her head?

A. Yes, sir. ✓

Q And that the murder of this young lady was a violent murder? ✓

A Yes, sir.

Q Now, Mr. Bird, there is Sam Sheppard. Do you see him back of me?

A Yes, sir, I do.

Q He is on trial, sitting in the prisoner's dock, charged with murder of the type that you know the charge is. Now, will you look at him and tell me whether the fact that this scene is presented and this idea is presented to your mind at this time raises any presumption in your mind?

A It does not, sir.

Q It does not?

A No, sir.

Q Now, I ask you these questions because we have to ask them to get the ideas of the person who comes in here because we don't know you.

A I understand.

Q We don't know what your thinking is, and people have different ideas. As you understand, Mr. Bird, that the control of the law and what the law is is deposited in the hands of the Judge that sits in this case, Judge Blythin?

A I understand that, yes, sir.

Q And that the control of the facts and the analysis of the facts resides in the jury?

A Yes, sir.

Q That is, if, for instance, a witness comes on the stand and says on a particular day the sun was shining, and another witness comes on the stand and contradicts him and says on that particular day it was raining and dark, those would be facts, and the analysis of those, the application of those, the determination of those facts is entirely in the hands of the jury. You understand that?

A I do, Mr. Corrigan.

Q And that no one can interfere in any way?

A I understand.

Q You understand that?

A Yes, sir.

Q And that the law, for instance, what murder in the first degree is, you can't apply your own idea of what murder in the first degree is, but you must take that instruction from Judge Blythin as to what murder in the first degree is.

A I understand that.

Q You understand that? That's the law.

A Yes, sir.

Q Now, in this particular case if you have been asked if you believe in the death penalty by both the Court and Mr. Mahon.

Do you get the idea from their questioning and the manner they questioned you that you have any obligation in this case to return a verdict of the death penalty?

A No, sir, I do not.

Q The law says that in first degree murder, if a man is found guilty of first degree, that the sentence shall be death in the electric chair unless the jury recommends mercy. That is the penalty for first degree murder. Do you understand that?

A Yes, sir.

Q And do you have any fixed ideas about the rendering of a verdict of mercy in a first degree murder case?

A Would you repeat that question, Mr. Corrigan?

Q It says that in a first degree murder case, if the verdict is guilty, it will carry with it the penalty of death unless the jury recommends mercy. Do you have any ideas that preclude you from rendering a verdict of mercy in a first degree murder case?

A No, sir, I haven't.

Q Now, this indictment says that Sam Sheppard, Sam H. Sheppard, on the 4th day of July of 1954 unlawfully, purposely and of deliberate and premeditated malice killed Marilyn Sheppard. That states a charge of first degree murder.

Now, do you understand what unlawfully, purposely, deliberation and premeditation mean?

A Yes, sir, I do.

Q If the Court charges you that the law is that it is necessary for the State of Ohio or the Prosecution to prove to you beyond a reasonable doubt each and every one of those things that are charged in this indictment, and that the proof of one or two or three is not sufficient, they must be all proven, do you subscribe to that charge?

A Yes, sir.

Q You will follow it?

A I will follow it, yes, sir.

Q Now, when an indictment like this -- this is the highest degree of crime in the state -- is returned it also includes other degrees of murder. It includes second degree murder, it includes manslaughter, it will include assault and assault and battery. Those are all included in here and all to be considered by a jury in a first degree murder case, and all have certain requirements to be fulfilled by proof.

Now, in each and every one of the included degrees of crime in this indictment, will you require the State to prove beyond a reasonable doubt all the elements set forth in the law before you return a verdict of any degree in this case?

A Yes, sir.

Q Now, we expect that the State will introduce to prove their claim in this matter circumstantial evidence. I assume, being a school teacher in the past, you have a very definite idea

about what is direct and circumstantial evidence. You understand those terms?

A I do, sir.

Q However, in applying the law that the Court will give you -- and he will give you some instructions upon that particular subject -- circumstantial evidence may be just as good as any other evidence, it may be better sometimes than direct evidence. But circumstantial evidence: If reliance for a conviction is placed on that, and the Court says to you that in that situation the facts and circumstances upon which the theory of guilt is placed must be proven beyond a reasonable doubt, and when all the facts and circumstances are taken together they must be irreconcilable with Dr. Sheppard's claim of innocence and must admit of no other hypotheses except his guilt -- do you understand?

A I do, sir.

Q And if that charge is given to you, will you tell me that you will abide and apply that charge as given to you?

A I will, sir.

Q Now, we will have police officers here. Do you come in contact with police officers in your work?

A We have the company police department there in the Terminal, Mr. Corrigan. Actually, it is the New York Central Police Department.

Q Have you ever done any police work?

A No, sir.

Q Well, there will be police officers testify here. Do you know any of these police officers over in the Central Police Station?

A I know none of them personally. I see the city officer on duty in the Terminal concourse.

Q Well, he is the uniform man, he wouldn't have anything to do with this case.

How about the sheriff's office; you don't know any of the sheriffs?

A No, sir, I don't.

Q There are a number of people out in Bay Village that probably will be witnesses here, and the Mayor of Bay Village and some of the police officers of Bay Village. You don't know them?

8 A No, I don't, sir.

Q We might have a conflict here on certain testimony on which it will be necessary for you to weigh one witness against the other. Do you understand?

A I understand, sir.

Q Now, police officers may testify. Will you give any greater weight to the testimony of a police officer than you would to an ordinary citizen just because he is a police officer?

A I don't think I would, Mr. Corrigan.

Q I want to know now.

A I think -- I would have to weigh -- I would have to hear the testimony. I wouldn't give any more credence to that testimony than to, say, the testimony --

Q You expressed a little hesitancy on it.

A No, I didn't mean to hesitate, Mr. Corrigan. I was forming my words.

Q I see. Because I have that -- I am sure that I will run into that problem in the trial of this case, that I will have police officers testify, and we know that they are the representatives of law and order and deserving of our respect.

A Yes, sir.

Q And you might have an ordinary Joe Smith come in and say something about the same situation that the police officer testified to which is in contradiction to what he said.

A Yes, sir.

Q And then it will be your obligation to weigh the two witnesses as to which one you will believe or which part you will believe. You understand that, don't you?

A I understand that, yes, sir.

Q The only thing I want to know is just the mere fact that this one witness is a policeman, you wouldn't give him greater weight than you would to the other fellow?

A I would not.

Q And we will have the same situation in regard to doctors. Certain doctors will be called here by the State, and we

probably will call some doctors in rebuttal, if it is necessary. And you would not give doctors called by the State any greater weight than you would to our doctors --

A No, sir.

Q -- just merely because they were State's witnesses or occupied an official position?

A No, sir.

Q I have this, Mr. Bird, in this case, and it will probably appear in the case, that Dr. Sheppard is what is known as a Doctor of Osteopathy, and we have medical doctors. He has a degree of D.O. or O.D. -- which is it, doctor?

DR. SAM SHEPPARD: D.O.

Q (Continuing) -- D.O., and other doctors from a different school have a degree of M.D. Are you familiar at all with the difference between an M.D. and an O.D.?

A No, sir, I am not.

Q You haven't any notions about that at all?

A No, sir.

Q If I tell you that both doctors take the same State Board and both are general practitioners admitted to general practice in the State of Ohio in all branches of medicine and surgery, that the law creates no distinction between them at all, would there be anything in your mind that would influence you towards accepting the opinion of an M.D. rather than the opinion of an O.D. merely because one has one title and the

other has the other title?

A No, sir.

Q It would not?

A It would not.

Q You would weigh that testimony on the intelligence they showed and the knowledge they showed?

A That's correct, sir.

Q Is that correct?

A That is correct.

Q Did you read a story about a girl named -- a young lady named Susan Hayes in the paper?

A Yes, sir.

Q Did you see her picture?

A I think I did, yes, sir.

Q You say you read the News?

A I do, and as I recall it, that is the paper that I saw it in, if I am not mistaken.

Q Do you remember a picture of this young lady, rather a large picture, on the front page of this young lady sitting on the lawn in summer attire, shorts, and so forth, and having a large picture taken and an interview with her by a young lady reporter on the Cleveland News named Doris O'Donnell?

A Mr. Corrigan, I did not see that particular picture.

Q You didn't see that?

A No, sir.

Q But you know of the situation there?

A Yes, sir.

Q Did you know that she had made some statements to reporters that she had some intimacies with Dr. Sam Sheppard? L

A I did, sir.

Q That she revealed that? L

A Yes, sir.

Q Does that prejudice you in any way against Dr. Sheppard?

A None whatsoever, sir.

Q Now, if you are accepted as a juror, Mr. Bird, will you be swayed in any way by what other people think about this case?

A No, sir.

Q Will you make up your mind entirely on what you hear in this courtroom?

A Yes, sir.

Q Will you refuse to talk to anybody about this case or have anybody talk to you about the case?

A Yes, sir.

Q During the time that you are on the jury?

A I will, sir.

Q So that substantially, you will not be impressed by what other people say, is that correct?

A That is correct, Mr. Corrigan.

Q We are all victims of what we hear and see. You know that,

Mr. Bird?

A Yes, sir.

Q And I have asked you and Mr. Mahon has asked you a great number of questions touching upon your qualifications as a juror. We do it because Mr. Mahon accepts the responsibility of this case, and I probably and my associates know that we have a young man on our hands whose life is in jeopardy by the very fact that he is indicted, and that is why I ask you all these questions.

A I understand.

Q So as to be careful and get that kind of a jury that the Constitution provides for.

A Yes, sir, I understand.

Q And has anything occurred in your mind now that I haven't inquired about, or do you think of anything? Because I am sure, Mr. Bird, that you want to be a fair juror, don't you?

A I would, sir.

Q Is there anything that occurs to your mind that I haven't asked you about that would interfere in any way with your judgment in this case, deciding it just the way you would want your case decided or your son's case decided if he grows up to be a man and gets into trouble?

A There is nothing that I can think of, Mr. Corrigan.

MR. CORRIGAN: I pass for cause.

THE COURT: Mr. Bird, after the

recess, will you be kind enough to take that chair No. 9?

Ladies and gentlemen, we will now have a few minutes' recess. And will you all be careful not to discuss this case or any matter connected with it, not even among yourselves?

(Recess taken.)

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