

(AFTER RECESS:)

Thereupon JOHN C. SMITH, being first duly sworn, was examined and testified as follows:

EXAMINATION OF PROSPECTIVE JUROR JOHN C. SMITH:

BY THE COURT:

Q Your name, sir, is John C. Smith?

A Yes, sir.

Q And you live at 1128 East 168th?

A Yes, sir.

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

A Going on four years now.

Q Where did you live before that?

A 14302 Westropp Avenue.

Q Westropp?

A Yes, sir.

Q That's in the northeast section, too?

A Yes, sir.

Q And are you a married man?

A Yes, sir.

Q Have you any children?

A Yes, sir; two.

Q How old are they?

A I have a son five and a daughter two.

Q And do your wife and yourself and your two little ones constitute the entire household?

A Yes, sir.

Q You have no one else living with you?

A No, sir.

Q What is your occupation or profession?

A My title, sir, is District Service Supervisor for Towmotor Corporation.

Q For what?

A Towmotor, a fork lift truck manufacturer.

Q District Supervisor for the Towmotor Corporation.

T-o-w-m-o-t-o-r, I guess?

A That is correct.

MR. CORRIGAN: What is that?

MR. GARMONE: Lifting devices?

PROSP. JUROR SMITH: Yes, sir.

MR. MAHON: They manufacture lift trucks.

Q Where is your place of business?

A 1226 East 152nd Street.

Q How long have you been connected with Towmotor?

A Well, nine years. This coming May will be 10 years, May 21st.

Q Have you ever served as a juror before?

A No, sir, I have not.

Q Have you ever been a witness in a case at any time?

A No, sir.

Q Do you know any of these gentlemen around the trial table who were named here a week ago last Monday morning?

A No, sir, I do not.

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

A No, sir.

Q Do you know the sheriff or any member of his staff?

A No, sir.

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

A No, sir, I do not.

Q When I speak of family, I would like to include your wife's as well as your own, if I may. Are there any members of your family who are members of any Police Department or any law-enforcing agency anywhere, if you know?

A No, sir, to my knowledge there is not.

Q And has there been visited at any time upon any member of your family violence at the hands of another, if you know, an attack or robbed?

A No, sir, not to my knowledge.

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

A Yes, sir, I have.

Q By what means, generally? ✓

A Well, I have heard of it by radio, by paper, and naturally, ✓
I have heard --

Q People talk?

A People talk, yes, sir.

Q Have you ever expressed to anyone at any place an opinion as to the guilt or innocence of Dr. Sheppard?

A No, sir, I have not.

Q Do you have an opinion now as to the guilt or innocence of Dr. Sheppard?

A No, sir.

Q Do you understand that Dr. Sheppard, even though indicted and charged with murder in the first degree, is still presumed to be innocent and is to be presumed to be innocent until all the evidence is in and the jury is convinced at that time that he is guilty beyond a reasonable doubt?

A Yes, sir, I understand that.

Q And you understand, too, that it is the function of the jury to decide that question of his guilt or innocence?

A Yes, sir.

Q And that they are to do so by weighing the evidence that is produced in this court under the rules which the Court will state as to the law of the case?

A Yes, sir.

Q And do you understand, too, that all people are on the same level precisely as witnesses in a court of law, without regard to whether a person is a professional man, common laborer, a man with a title, public official or what, that his evidence

is to be weighed on the same basis precisely as the evidence of any other person at the outset? There will be one test and one only, that is, what is the truth and what is not the truth. You understand that?

A Yes, sir, I understand that.

Q Have you any objection in a proper case to capital punishment?

MR. CORRIGAN: I object.

THE COURT: Overruled. Exception.

A No, sir, I have no objection.

Q Have you at any time since the 4th day of October of this year received any communication by any means at all from anyone that could be directed or have some reference to this case?

A Well, sir, if you would be referring to this letter that several of the prospective jurors received, I did receive a letter of some sort.

Q When did you receive it?

A Well, I don't recall the date I received it. I had intended to see if I could find it and bring it down with me today, but --

Q About when was it? Was it last week or the week before, the week before that, or when? Was it before you came here or after?

A It was before I came here, yes, sir. Approximately a week,

a week and a half, I would say.

Q I will show you the Court's Exhibit A-9 and A-10. Will you be good enough to take those and look at them and see if you can tell whether what you received is the same as that?

A Well, sir, I did not read this letter, but I did see this picture here and it looks identical.

Q And you didn't read the letter?

A No, I did not.

Q But is it your judgment that it was a document like that?

A I would say it is, yes, sir, or was.

Q Do you know who sent it to you?

A Well, I don't recall the person's name that was on the letter.

Q No. Do you know who sent it to you?

A No, sir.

Q Now, you mentioned a person's name. What do you mean by that?

A Who signed the letter, the signee of the letter. I don't remember the name.

Q Did you see anything in the newspapers about it?

A Yes, sir. I read in the newspaper where Mayor Celebrezze and several other people had received one of these letters.

Q I take it that you don't know who sent it to you?

A No, sir, I do not.

Q Have you any notion at all or have you entertained any such

notion at any time that Sam Sheppard's family or any of his friends had anything to do with it?

A No, sir, I have no reason to believe that any of those people had anything to do with it.

Q All right. The Court will say to you that we know who sent it to you, and that the Sheppard family and their friends had no connection whatever with it.

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

A No, sir, it would not.

Q The State, to our left here at the trial table, and the defendant and his counsel, on the right side of the trial table, our right side of the trial table, want one thing and one thing only, and they are entitled to that, and that is a jury of citizens who are absolutely fair and impartial and who will forget everything they have read and known and heard about this case, and who will be guided in their judgment entirely by what they hear as evidence in this courtroom under the instructions of the Court as to the law.

Is it your belief that you could sit here and listen to the evidence and the instructions as to the law and so be guided by those entirely in arriving at a conclusion in this case?

A I believe I could, sir.

Q Are you sure you could?

A I am sure I could.

Q Do you have any notions at all now that you could not entirely disregard and start anew to listen to evidence?

A No, sir, I don't know of any reason why I could not do just that.

THE COURT: This is Mr. Parrino,
Assistant County Prosecuting Attorney, and he would
like to put a few questions to you.

EXAMINATION OF PROSPECTIVE JUROR JOHN C. SMITH:

BY MR. PARRINO:

Q Mr. Smith, after having waited all this time you finally made it here to the witness stand to serve as a prospective juror in this case. Now, let me say this to you as I begin this questioning. You see 12 people here seated in this box. They will be the jury in this case, Mr. Smith. They have been chosen and sworn as jurors in the case of the State of Ohio versus Sam Sheppard.

Now, at this time we are undertaking to select either one or two alternate jurors, who will also sit in this courtroom with the jury of 12 throughout this entire trial. You understand that?

52 A Yes, sir.

Q That your duties as an alternate juror during the course of the trial will be exactly the same as these other 12 people

that sit here in that you will listen to the evidence, you will come and go from this courtroom with them, you will be in their company throughout this entire case. You understand that?

A Yes, sir.

Q Now, in the event, however, in the event that there should be something unforeseen occur during the course of this trial, either illness or because of some event that might occur in the homes of any of these 12 people, some unfortunate event which we, of course, hope does not occur, but we do know occasionally does occur, then in that event, it will be you, as the first alternate juror, who will be seated in the place of that person who is unavoidably absent, and serve as a member of the original 12 in this case. You understand that, do you?

A Yes, sir.

Q So if that unforeseen event does not occur, that is to say, if everything goes along to the completion of all of the evidence and the Court's charge, and the original 12 members of this panel are still here, then at that time the one or the two alternate jurors that are being selected at this time will be excused by the Court and you will not participate in the final deliberations of the jury. Do you understand that?

A Yes, sir.

Q So in a manner of speaking, then, we are in this case carrying a spare or two spares to sit in in the case of any unforeseen event. You understand that, do you, sir?

A Yes.

Q Now, Mr. Smith, you say you work for the Towmotor Company?

A Yes, sir.

Q For approximately nine years?

A Nine years, approximately 10.

Q And you are a supervisor there?

A Yes, sir.

Q Now, just what exactly does your line of work include?

A I work for the Service Department, and my job is field contact.

Q Do you travel about from place to place?

A Yes, sir. I hold the responsibility of customer relationship and also to keep our customers properly informed on our new improvements, and so forth, and my duties are many from a service angle.

Q And do you have any men or women that work under you, Mr. Smith?

A No, sir, not directly. In other words, we have men in the field as mechanics, and it is my job to see that our customers are properly taken care of. I also sell service and anything pertaining to service to the equipment after the customer once has it in his operation.

Q Of what does your territory consist?

A Well, my territory starts at East 54th Street and Lake Shore Boulevard, 55th Street, rather, over to Broadway, Broadway to Route 8, Route 8 through Akron, Canton, down as far as Coshocton, Ohio, and everything west to Elyria and back into Cleveland -- and Lorain, I should say.

Q Have you ever served as a juror before, Mr. Smith?

A No, sir.

Q Have you ever served as a witness previously?

A No, sir.

Q As a juror in this case, you will be called upon to perform certainly what will be one of the most outstanding serious acts of your life. You understand that?

A Yes, sir, I do.

Q And we are here in an important trial of the State of Ohio versus Sam Sheppard. It is important to the defendant, certainly, and it is important to the State, and it is important that we receive and have on this trial 12 people who will fairly and justly hear both sides of this case in an effort to render a just verdict. And that is the purpose of this question: Now, sitting in the jury box, as you will throughout this trial, even as an alternate, you will be in a position to listen to all of the testimony of the witnesses in an effort to determine what the evidence is and what the facts are, and should you be selected as an alternate

juror, I am sure that you will give to all that takes place in this courtroom your undivided interest and attention in an effort to determine specifically what the facts are; will you do that, please?

A Yes, sir, I certainly will.

Q And as you must appreciate, Judge Blythin, being the presiding person in this court, will direct all of these proceedings to insure to both sides a fair and an impartial trial. Is that your understanding of his role, sir?

A Yes, sir.

Q And Judge Blythin, in addition to that, has another job, and that will be at the conclusion of all of the evidence, after all of the mass of testimony has been completed, then he will state to you and other members of the jury what the specific rules of law are that will apply to this case.

When he does that, of course, you appreciate that it becomes your duty, then, to accept what he says to be the law and set aside any impressions or previously formed opinions that you may have and take and accept strictly what he says to be the law as being the law in this case. Do you feel that you could do that?

A Yes, sir, I feel that I could.

Q And in any case, Mr. Smith, one of the important functions of a jury is to search for the truth, and in the position of searching for the truth, of necessity, of course, you will

have to listen to the testimony of many witnesses. And you folks that sit in the jury box are the judges of the witnesses. In other words, it is for you to decide on the basis of what these witnesses say as to who you shall believe and who you shall not believe. Do you understand that?

A Yes, sir.

Q And no one here can interfere with your duty in that regard. That is to say, we cannot tell you who to believe, the prosecution, and the defense cannot tell you who to believe, and neither can Judge Blythin. That is your job as a juror in this case.

A Yes, sir.

Q And will you look at your service as a juror in that light?

A I certainly will.

Q Now, in judging or determining how much value or consideration you will give to all of the witnesses that testify, I mean all of the witnesses, the State's witnesses and the defense witnesses, Judge Blythin will state to you that you may take into consideration whether or not a particular witness is telling a reasonable story, a probable story. If he says that you may take those factors into consideration, will you follow his instruction in that regard?

A Yes, sir.

Q Now, if Judge Blythin should state to you that as a juror in sizing up a witness you may also take into consideration

the interest or the lack of interest that a witness may have in this case, will you follow his instruction in that regard?

A Yes, sir.

Q And will you keep in mind, sir, that a person who may have an interest in the case, that that might in some way at times tend to affect or color his judgment as he testifies? Will you keep that in mind?

A I will remember.

Q Now, then, when you serve as a juror, you will keep in mind the rules as to how you will judge, how much consideration you will give to a witness as those rules are given to you by his Honor, Judge Blythin? Will you do that, please?

A Yes, sir.

Q Taking into account probabilities, the lack of probabilities, the reasonableness, the unreasonableness, the interest or the lack of interest of all those who testify, will you do that, please?

A To the best of my ability.

Q And will you take into account whether or not that person who testifies on a particular subject was in a position to know and to accurately relate that which he is testifying about?

A Yes, sir.

Q In other words, if a person is in a position to see first-hand something that has happened, he may be in a position to

tell you a little bit more accurately about that particular event than someone else who is not in that position, do you understand that?

A Yes, sir.

Q And judging from your answers that you have given to Judge Blythin here previously, Mr. Smith, you have no objections to capital punishment, do you?

A No, sir.

Q So that in a proper case properly proven you feel that you could enter into a verdict that might take a human life, is that correct?

A Yes, sir.

Q And you are willing at this time to accept the full responsibility of such an undertaking, are you?

A Yes, sir.

Q Now, if you should serve as a juror, of course, if you are not convinced beyond a reasonable doubt of the defendant's guilt, as an honest and reasonable person, you will find him not guilty? Is that the position you take?

A Yes, sir, that is the position I'll take.

Q And, on the other hand, if after listening to all of the evidence, both the direct evidence and the circumstantial evidence, you are as an individual and a member of the jury convinced beyond a reasonable doubt of the guilt of the defendant, would you then hesitate to return a verdict of

guilty?

A I would not.

Q Now, as I have stated to you in this case, certainly, we will have two types of evidence, direct evidence and circumstantial evidence. Do you have some understanding of what is meant by those terms, Mr. Smith, in a general way?

A I would say circumstantial evidence is -- I understand what circumstantial and direct evidence is, but to put it in words --

Q It is a little hard to describe.

A A little difficult, yes, sir.

Q It is hard for lawyers, too, especially for me. But I say this to you, that in judging this case, Judge Blythin will state to you what constitutes direct evidence. He will tell you what it is and he will describe it for you in law. Will you follow his instructions as to direct evidence?

A Yes, sir.

Q And similarly, of course, he will describe for you what constitutes circumstantial evidence. And will you take his description and charge on that subject and follow it in this case?

A Yes, sir.

Q So on both factors, then, on direct and circumstantial evidence, you will listen to the Judge as to what he has to say on how you shall use them in this trial and apply them

to the case; will you do that, please?

A I certainly will.

Q As the result of what you have read about this case, sir, and what you have heard and what little you have talked about it, you, yourself, here today have not formed an opinion one way or the other as to the guilt or the innocence of this defendant? Is that the way you feel?

A I have not formed an opinion.

Q You feel that coming into this courtroom it is perfectly possible for you to sit here with an open mind and hear evidence and hear law and come to your decision on the basis of what you hear strictly and solely in this courtroom, setting aside from your mind everything else that has come to your attention? Do you feel that you could do that?

A Yes, sir, I do.

Q You realize, of course, that among the many people who will testify in this case, they will come from various walks of life. We will have doctors, professional men of various kinds; we will have public officials, the coroner, police officers, and Judge Blythin will state to you that you will not give any more credence or value to the testimony of one witness over another witness merely because he has a title of some kind or another. Will you follow the Court's instructions in that regard?

A Yes, sir.

Q In other words, you will judge the testimony of witnesses by what they say, by how they say it, by their ability to accurately relate what they have seen or know about the case, is that correct?

A That's correct, to the best of my ability.

Q Without any particular regard to title or lack of title of those that testify, is that correct?

A That is correct.

Q You know, of course, that we cannot in these cases in criminal court -- rather, you, as a juror, cannot permit your deliberations, insofar as is humanly possible, to be affected by prejudice or bias or sympathy for or against anyone. That is a fair statement, is it not, sir?

A Yes, sir, that's a fair statement.

Q So that so far as you are able to do so in your heart and in your mind, will you let prejudice enter into your verdict in this case?

A No, I will not.

Q And will you let bias against anyone enter into your verdict in this case?

A No, sir.

Q And on the same hand by the same token, will you let sympathy for anyone enter into your verdict in this case?

A No, sir.

Q You realize, do you, Mr. Smith, that in these courts of

American justice, that all persons who come into this courtroom are judged on the same basis? Do you appreciate that?

A Yes, sir, I appreciate that.

Q That all defendants, regardless of who they may be, or their rank in life or the modesty of their station in life, their titles or lack of titles, whoever they are, when you come into a courtroom everyone receives equal justice; do you appreciate that?

A Yes, sir.

Q And do you appreciate, also, that we gentlemen who serve on this side of the table representing the prosecution who, in turn, represent the State of Ohio in these proceedings, you appreciate, of course, that we also are entitled to a fair and an impartial hearing of this case, do you not?

A Yes, sir.

Q So without favor, fear, bias, prejudice, sympathy, you, as a citizen in this community, will enter into this courtroom to enter justice for both parties in this case, is that the way you feel, sir?

A That's the way I feel, sir.

MR. PARRINO:

Thank you very much.

Pass for cause.

THE COURT:

That is Mr. William J.

Corrigan for the defense. He would like to ask you a few questions.

EXAMINATION OF PROSPECTIVE JUROR JOHN C. SMITH:

BY MR. CORRIGAN:

Q Your name is John Smith?

A Yes, sir.

Q That is a rather famous name.

A Thank you, sir.

Q Mr. Smith, do you recognize Dr. Sheppard?

A Yes, sir, I recognize Dr. Sheppard.

Q This is Mr. Petersilge that is associated with me in the defense of this case. There are a couple of others, but they seem to have gone. There is Mr. Garmone. You have seen him, have you?

A I did see him the first day I was in this courtroom.

Q You don't know him?

A I wouldn't know him if I met him in the hallway.

Q Were you born in Cleveland, Mr. Smith?

A No, sir, I was not.

Q Where were you born?

A In Scottsboro, Alabama.

Q And were you educated in Scottsboro, Alabama?

A No, sir.

Q Pardon?

A No, sir. I was educated in Tennessee.

Q Where?

A In Tennessee.

Q And where in Tennessee?

A Newport.

Q What college is there?

A I didn't go to college.

Q What?

A I didn't go to college.

Q That was high school?

A No, sir. I didn't go to high school. I didn't complete the ninth grade.

Q I see. When did you come to Cleveland?

A My first trip to Cleveland was 1939, and again in '41, and I have been in Cleveland since '41.

Q Did you work in some other part of the country besides Cleveland?

A Well, I worked in Tennessee and I worked in Georgia.

Q And what?

A I worked in Tennessee and Georgia.

Q And what did you do there?

A Well, in Tennessee we lived on a farm. In Georgia I worked for the Peerless Woolen Mill Co. there as a dye boiler.

Q You started to work rather early in life?

A Yes, sir, I did.

Q And then in '41 you secured this position here in Cleveland, went with this company in Cleveland?

A Well, I worked for four companies in Cleveland. My first

job in Cleveland was with the Cleveland Container Corporation.

From there I worked --

Q What did you do at the Cleveland Container Corporation?

A I was a winding machine operator.

Q That's out on Euclid Avenue?

A No, sir. West 162nd Street and Barberton Avenue.

Q And then where did you go?

A I went to the Aluminum Co. of America, worked at their magnesium plant on Ivanhoe Road.

Q And then?

A From there I worked for the New York Central Railroad as a road brakeman. That was a short-lived job which didn't appeal to me, and I --

Q What kind of a job was that?

A Road brakeman for the New York Central Railroad.

Q Traveling between what points?

A From Cleveland to Bellefontaine and Columbus. Then I went to work for Towmotor Corporation, and I have been there, it will be 10 years this coming May.

Q It will be 10 years?

A This coming May it will be 10 years.

Q Your work carries you outside of the county, does it not?

A Yes, sir.

Q And you go south to Ashland?

A Well, sir, I have traveled south to Ashland, but that part of

the territory has been given to Toledo now and I no longer have that territory.

Q Did you have it last summer?

A Yes, sir, I had it last summer.

Q And what would be the western point of your territory?

A Lorain, Ohio.

Q And the easterly point?

A 155th Street, on the shop, the plant.

Q The plant here?

A Yes, sir, on east 152nd Street.

Q Now, you said that you did read about the case?

A Yes, sir.

Q And your work puts you in contact with quite a number of people, doesn't it?

A Yes, sir, it does, a lot of manufacturers.

Q Perhaps in a day you would speak to as high as a dozen people?

A That's very possible.

Q Now, you know that there has always been, ever since this happened, a tremendous amount of publicity about Dr. Sheppard?

A Well, I would guess that there has been. I seen -- I take the Plain Dealer, the paper, and of course I have a radio, and I have heard it from time to time on the radio, and I have read about it from time to time in the Plain Dealer.

Q Do you take the Press, also?

A No, sir.

Q Or the News?

A No, sir.

Q You just read the Plain Dealer?

A The Plain Dealer, that's the only paper I take.

6 Q Do you get a paper from some of the towns that -- your home town?

A No, sir.

Q Now, in going around in your territory, Mr. Smith, did you talk to people outside of the city about this case?

A I can't recall of ever having conversation with anyone on my job regarding this incident.

Q You don't recall anybody talking with you?

A Not while I was on the job, no, sir, as you asked me, no.

Q Out of the shop you come in contact with quite a number of people?

A Yes, sir.

Q Workmen, and so forth?

A Yes, sir.

Q Office associates?

A Yes, sir.

Q Did you ever hear it discussed there?

A No, sir, I can't say as I have. I might add that I very seldom read a complete article in the newspaper. I usually

read to where it says continued on such and such a page, and that's usually where I stop.

Q You don't turn the page?

A I never -- I mean, I am being honest and fair when I say this, I don't dig after it. I mean, I read so far, and if I hit onto it again, I might take it up again, and again I might not.

Q Now, you do recall that you read about this case?

A Yes, sir.

Q Did you read that Dr. Sheppard is accused of killing his wife in her bed?

A Well, sir, I wouldn't say that I read it or heard it on the radio, but I do recall something -- I don't recall if that's the exact words or not, that he was accused of taking his wife's life in her bed, but something to that effect.

Q At least in her home?

A Yes, sir.

Q Now, as you travel along through the country on your trips, do you listen to the radio?

A Yes, sir.

Q And have you heard the comments of various radio commentators on this case?

A I have. I have heard the news. I don't know if you would call it comments of the radio commentators or not. I wouldn't say they were making comments on this subject, but I never made

it a point to remember what the broadcast actually said.

I listened to the radio. If the newscast happens to come onto the station I am listening to, which is usually around 1300, I listen to it, but I don't make it a point to remember exactly what is said.

Q I suppose you are like I am, you listen to a broadcast and sometimes you forget about it unless somebody calls your particular attention to something that was said?

A That's absolutely right, sir.

Q Let me see if I can call your attention to something that was said that you may have heard. Did you hear that there was an attempt by the family of Dr. Sheppard and the lawyers of Dr. Sheppard to throw a roadblock around Dr. Sheppard to prevent the police from inquiring about the crime? Do you remember that?

A I can't honestly say I did, sir. When you mention this, it brings something about a rope they had stretched out there, if that's why you are trying to inquire about.

Q Threw a protective curtain around him?

A No, sir, I can't say that I heard that.

Q You didn't hear that?

A I can't say that I did.

Q And you have no impression of that kind now?

A No, sir.

Q Well, your name appeared in the newspaper that you were

summoned to be a juror. You know that?

A Yes, sir.

Q Was it discussed with you after your name appeared in the newspaper by anyone?

A The case, that is, or the story?

Q Yes.

A No, sir, it wasn't discussed with me. As a matter of fact, I didn't find my name in the paper. Some of the personnel in my office saw it and they called it to my attention.

Q Now, you said you read the Plain Dealer?

A Yes, sir.

Q Do you remember a cartoon on the editorial page of the Plain Dealer that had the head of Dr. Sheppard imposed upon an animal with a choker around his neck? Do you remember that cartoon?

A No, sir.

Q You don't?

A No, sir.

Q And indicating that he was hiding from the police, you don't remember that?

A No, sir, I don't.

7 Q Well, when this lady told you about your name being in the paper, was there any discussion about it?

A Well, I don't remember the exact words, but there was no discussion. It's just they might have said, "What did you do

to get your name in the paper?" Or, "How did you get your name drawn for this jury duty?"

And I probably answered, "Well, I vote," or something to that effect, but there was no discussion on the subject.

Q Did you make any expression that you were glad that your name was pulled?

A No, sir, I didn't make any expression that I was glad because, as a matter of fact, I was a bit dumbfounded because that's something different and new to me, and I was a little bit, shall we say, worried about it. In other words, I knew it would be a new adventure. Well, I didn't actually know what my feelings were at the time.

Q Do you have a television at home?

A Yes, sir.

Q Have you seen incidents connected with this case on television?

A Incidents?

Q Yes, any shots they have made in connection with the Sheppard case? There have been matters on the television for months. Now, did you see any of those?

A Yes, sir, I have seen some of them, but if you asked me to point out any individual incident, I wouldn't be able to do so. I have seen them.

Q Well, that was in your own home?

A Yes, sir.

Q And have you seen them since you were summoned as a juror?

A No, sir, I have not.

Q This was before?

A This was before.

Q In going to Ashland you drive out -- have you ever driven out the Lake Road?

A In going to Ashland?

Q Yes.

A No, sir, I have never driven out to Lake Road going to Ashland. I have driven out the Lake Road going to Lorain, Ohio.

Q And do you know where Sam Sheppard's house is? ✓

A I have seen his house, yes, sir. ✓

Q Pardon?

THE COURT:

He has seen his house,

yes.

Q You have seen his house?

A I have seen the house that had the rope around it, which I was told was his house. I have no way of knowing it other than that. ✓

Q Who told you it was his house?

A I read in the papers where he had a rope stretched around his house. I wouldn't be able to identify it as being his house if you took the rope down, unless you gave me the address and said, "Here's the address of his house," and then I would ✓

be able to.

Q You were told that there had been a rope put around Sam Sheppard's house, is that correct?

A I would say I read it in the paper, yes, sir. ✓

Q Read it in the newspaper?

A Yes, sir.

Q And then when you drove along there, you looked at the house?

A I could see the house, yes, sir.

Q The rope, as I understand, is around the trees that are in front of the house?

A Well, sir, I wouldn't know if it is around trees or staked out, because at the time I was driving to Elyria and Lorain and I didn't stop or anything because I kept right on going.

Q You have customers in Lorain?

A Yes, sir.

Q And your customers are people that -- what kind of people are your customers?

A Manufacturers of all types.

Q That use this machinery inside their plant?

A The material handling equipment, yes, sir.

Q And knowing that you had come from Cleveland and passed Sam Sheppard's house when you went to Lorain, did anybody talk to you about the fact that you had seen the house?

A No, sir.

Q They did not?

58 A No, sir. Surprisingly enough, I heard very little comment about this case through the different people that I called on. As a matter of fact, I can't recall anyone bringing it to my attention. I am surprised to hear some people say, "Well, that's all you can hear when you go someplace." It isn't true with me. I don't hear this every place I go.

Q People have stated to you that everywhere they went people were talking about it, is that correct?

A I have heard that statement made.

Q Talking about it in saloons and --

A Well, I don't know.

Q -- and clubs, and so forth?

A I don't know. I do drink, but I don't go to saloons. I go to mostly --

Q But you got the general impression in talking to some other people that everybody else was talking about it?

A Sir, I never got the opinion that they were doing that, but I have heard it said that different people -- I have heard people say, "It seems to be the topic of conversation."

But I say, I didn't find it true in my case.

Q Well, where were these conversations that you got the information that it was the general topic of conversation, where did they occur?

A Well, it could have occurred anyplace. It could have occurred

on the street. I wouldn't recall the actual time and place or the person that made the statement, but I do remember such statements being made, and being of no interest to me, I wouldn't make it a point to remember.

Q Did you in these conversations with anybody hear any stories that were told about Dr. Sheppard?

A No, sir.

Q Or any remarks reflecting upon him?

A No, sir, I can't say as I have, to be truthful.

Q Did you in reading these newspapers see the name of Susan Hayes?

A Yes, sir, I recall seeing that name.

Q Do you recall in reading the newspapers that she stated to a newspaper reporter, who later published the matter in the public press, that she had been intimate with Dr. Sheppard?

A Well, sir, I have either read that statement or heard it on the radio, one of the two. I wouldn't know exactly which. I might have read it and heard it on the radio, but I have heard that or I read it, yes, sir.

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

A No, sir, it does not.

Q It does not?

A No, sir.

Q Mr. Parrino has asked you about sympathy, the effect of

sympathy upon you. I suppose, Mr. John Smith, that you have the sympathy, ordinary sympathy that any normal human being has?

A I don't think there's any doubt about that.

Q You feel sorry for people that have misfortunes?

A Yes, sir, certainly.

Q Is there anything in that question that he asked you that would indicate to you, or do you think that we are in court here looking for sympathy?

A No, sir, I did not interpret it that way.

Q You know that Dr. Sheppard is entitled to justice under the American law?

A Yes, sir. That's something I am proud of, because I would expect justice myself.

Q And that's all we are looking for, is justice from the jury. You understand that?

A Yes, sir.

Q He also talked to you about direct evidence and circumstantial evidence. Do you remember that?

A Yes, sir, I remember.

Q And you understand generally what the difference is between direct and circumstantial evidence?

A Yes, sir, I do, I understand it.

Q Sometimes it is a little difficult to define it, but you know in your own mind what it is?

A Well, yes, sir.

Q Now, in the trial of a lawsuit there are, you might say, two particular divisions, and that is fact and law, and the Court will instruct you -- you believe in American law, do you?

A Yes, sir.

Q (Continuing) -- the Court will instruct you that when it comes to a question of fact, that the jury is the sole judge of the fact.

A The Court will instruct us to that extent?

Q The Court will instruct you as to that.

A Yes, sir.

Q I would illustrate the fact this way. I am wearing a blue suit. You notice that?

A Yes, sir.

Q Supposing a month from now the question of whether I was wearing a blue suit should be a matter in a lawsuit, and you would be called as a witness and somebody on the jury would be called as another witness, and you would testify that I was wearing a blue suit, while somebody else would testify, "No, he wasn't wearing a blue suit. He was wearing a gray suit," because I did have a gray suit on during this week, but we are talking about this particular day. Now, the question of whether I was wearing a blue suit or a gray suit would be a question of fact. Do you understand?

A Yes, sir.

Q And that would be entirely a matter for the jury to determine. Now you understand what a question of fact is?

9 A Yes, sir.

Q And we will have many, many, many of those things through the trial of this lawsuit. And this jury will be the judges of those facts. They will say whether this is so, or this is so, or this is so, or this is not so, and nobody can interfere with that. Now, that is one phase of a lawsuit over which the jury has complete control.

Now, the other phase of a lawsuit is the law. That is reposed in the hands of the Judge, Judge Blythin in this case, and he, for instance, will tell you what murder in the first degree is under the law, what manslaughter is, what various things are, what the rules are that have been established by time and experience. And the law further is that a jury must abide and follow the law given to them by the Court. Now, will you?

A Yes, sir, I will abide by the Court's ruling.

Q In other words, you won't apply any rules of your own?

A No, sir.

Q In regard to what the law is?

A No, sir.

Q For instance, first degree murder, the Court will tell you, is that whoever purposely, deliberately and with premeditated

malice -- unlawfully, purposely and deliberately with pre-meditated malice kills another is guilty of murder in the first degree. That's the law. Will you follow that as being the law of first degree murder?

A Yes, sir.

Q In other words, you won't adopt any system of your own and say, "Well, that's too much. First degree murder shouldn't include all those things"?

A No, sir. I don't think I am capable of changing the rules of the Court. I might voice my opinion, if I differ, but I don't think I would be able to institute any rules of my own.

Q No. I want to know whether you will follow the rules as Judge Blythin gives them to you and not adopt some of your own?

A Yes, sir, I will follow the rules to the best of my ability.

Q Now, in first degree murder or in this -- this man is indicted. Did you read in the paper or did you hear over the radio that Marilyn Sheppard was killed as the result of a number of blows rained on her head?

A I believe, sir, the report I heard said by -- didn't know for sure whether they said head or body, but I believe it says --

Q What is that?

A I believe the report I either heard or read used the word body instead of head.

Q The body?

A Yes, sir.

Q I see. Well, now, just take this situation that you are confronted with, Mr. Smith. You are here in Court, and here is Dr. Sam Sheppard. He is indicted for murder in the first degree, for killing his wife. Does that fact, that he killed his wife -- or, is charged with killing his wife, and the fact that he is indicted for murder in the first degree, raise any presumption in your mind at this time that he is guilty of that crime?

A No, sir, it does not.

Q I will go back now for a moment to circumstantial evidence and the rule that the Court will give you on circumstantial evidence. You understand that before the prosecution or the State is entitled to a verdict of guilty, that they must prove by evidence to you beyond a reasonable doubt that this man is guilty. You understand that, don't you?

A Yes, sir, I understand that.

Q And if the Court says to you that where reliance is placed for conviction on circumstantial evidence, that the facts and circumstances, all the facts and circumstances, when taken together, must be so convincing that they are not reconcilable with Sam Sheppard's claim of innocence, and that those facts and circumstances taken together must admit of no other supposition except his guilt -- do you understand that?

0 A Yes, sir, I do.

Q And if that charge is given to you, will you apply that rule of law to circumstantial evidence?

A I believe I would be compelled to do so.

Q What is that, Mr. Smith?

A I say, I believe I would be compelled to do so under the Court's rulings.

Q Well, that's the correct answer for a good honest American appearing in this courtroom. You will follow the charge of the Court?

A This is after the evidence has been presented, correct?

Q What is that?

A This is after the evidence has been presented?

Q Yes. That's the first thing we do, we present all the evidence, and then when we get through with the evidence, you hear all the evidence, and then Judge Blything gives you the rules.

A Yes, sir; I will follow the rules. I think we discussed that before.

Q I am just anticipating what he may say to you so that I see if you will agree to follow the rules that he will give you at the end of the evidence.

Now, is there anything that occurs to your mind that I haven't asked you about?

A That you haven't asked me about?

Q Yes, or that Mr. Parrino has not asked you about?

THE COURT:

What Mr. Corrigan means

is: Is there anything that occurs to you now that he hasn't questioned you about that might affect your judgment in this matter?

A No, sir. I was trying to think. I don't believe there is anything that I can remember that he asked me that you haven't similarly asked.

Q There will be police officers testify here. You have done no police work, have you?

A No, sir.

Q Any members of your family done police work?

A No, sir.

Q There will be police officers testify here. We may have some testimony that will contradict those police officers, and the question of who the jury will believe will be entirely within their province. But would you give more credit to the testimony or more weight to the testimony of a police officer than you would to an ordinary citizen solely because he is a police officer?

A Well, sir, I believe the way to put that is I would have to hear the testimony of both parties under oath and then draw my own conclusion.

Q But what I mean, you know, sometimes men and women do give more weight to the testimony of a police officer because of

the fact that he occupies that position than they would to an ordinary person, and they give it just because he is a police officer.

A I wouldn't do that myself just because he is a police officer. I will try to treat each individual equally.

Q And that is true of any public official?

A Yes, sir.

Q You will weigh their testimony the same as you would any other person's testimony?

A Yes, sir. I think that is my obligation.

Q Do you know anything about the difference between a Doctor of Osteopathy and a Medical Doctor?

A No, sir, I don't.

Q What?

A I do not.

Q Do you know of any reason why you couldn't weigh the testimony of a Doctor of Osteopathy the same way you would weigh the testimony of a Medical Doctor?

A No, sir, I don't know any reason now why I could or couldn't. I don't know anything about the doctors' profession.

Q If they qualify, you would give them the proper weight, is that right?

A To the best of my ability, yes, sir.

MR. CORRIGAN: I think I will pass for
cause.