

WEDNESDAY MORNING SESSION, OCTOBER 20, 1954, 9:30 A.M.

Thereupon THOMAS J. SOLLI, being first
duly sworn, was examined and testified as
follows:

EXAMINATION OF PROSPECTIVE JUROR THOMAS J. SOLLI:

BY THE COURT:

Q Is your name Thomas J. Solli? ✓

A Yes, sir.

Q Is that how you pronounce it?

A Yes, sir.

Q And you live at 3693 East 76th Street?

A Yes, sir.

Q That must be near Union somewhere, in that general neighborhood?

A Yes, between Broadway and Union.

Q And how long have you lived in Cuyahoga County, Mr. Solli?

A Oh, since 1914.

Q And are you a married man?

A Yes, sir.

Q You are living with your family?

A Yes, sir.

Q And what does your family consist of, the wife and who else?

A My wife and a son and two daughters. Is that what you mean?

Q Have you any children?

A Yes, three of them.

Q Three of them?

A Yes.

Q And how old are they?

A The boy is 19, the girl will be 16 next February, and I got a little girl that will be 8 years old in February, too.

Q And what is your occupation?

A Well, I'm a track foreman on the Newburg and South Shore Railway.

Q And how long have you been so employed?

A Well, 18 years, sir.

Q Have you ever served on a jury before?

A Never.

Q You saw these gentlemen who were introduced here the other day and heard who they were. Do you know any of them?

A I never knew them before.

Q You don't know any of them?

A No, I don't know any of them.

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

A No.

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

A No, I don't.

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

A No.

Q Have you any relatives who are members of a Police Department or any law-enforcing agency?

A No, sir.

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

A No, sir.

Q Have you read or heard of this case, the case against Sam H. Sheppard?

A Well, on and off, yes, but I didn't pay too much attention to it.

Q But you have heard of it?

A I have heard of it, yes.

Q By what means did you hear about it, different means, or what were they, roughly?

A Well, roughly, I don't believe none of it anyway.

Q Well, that may be a good idea, I don't know, but you read the newspapers about it somewhat?

A Well, of course. Sometimes -- we get the Press, and sometimes you take it and glance at it, but like I say, what you read in the newspaper, you can't believe everything. ✓

Q Have you heard radio and television comments on it?

A No, I don't think I did.

Q All right. On the basis of what little you say you have heard, have you formed an opinion as to whether or not Sam Sheppard is guilty or not guilty?

A No, no.

Q You have no opinion?

A No opinion whatsoever.

Q I will ask you if you have any religious or conscientious or any other objections to capital punishment?

MR. CORRIGAN: Objection.

THE COURT: Overruled.

MR. CORRIGAN: Exception.

Q Have you any religious, conscientious or other objections to capital punishment?

A What do you mean?

Q What I mean is this: That in any case in this state in which the jury become convinced beyond a reasonable doubt that a person is guilty of murder in the first degree, and if they do not decide to recommend mercy and they find that person guilty of first degree murder and say no more, it would be my duty to sentence him to death.

The question is: Could you join in a verdict of first degree murder in a proper case, if you knew at the time that that would mean a sentence of death?

MR. CORRIGAN: I object to the question.

THE COURT: Overruled.

A Should I answer that?

Q You may answer that, yes.

A I suppose I would.

Q You could join?

A Yes.

Q So do I understand from you, then, that you have no religious or conscientious objection to capital punishment as such?

MR. CORRIGAN: I object.

THE COURT: Overruled.

MR. CORRIGAN: Except.

A Gee, you got to explain it a little bit more.

Q We are not trying to confuse you. We are trying to have you understand clearly what we mean.

Do you believe in capital punishment in a proper case?

A Yes, I do, yes.

Q In a proper case?

MR. CORRIGAN: I object.

THE COURT: Overruled.

Exception.

A Yes.

Q Do you believe that you could sit here and weigh the testimony of all witnesses on the same basis, whether they are important people or unimportant, in the general

acceptance of those terms, whether they are public officials or anybody else, that you could weigh their testimony on the same basis exactly to try to determine what the truth is and be fair and impartial?

A I could.

Q You can?

A Sure.

THE COURT: Mr. Mahon.

MR. MAHON: Mr. Parrino.

THE COURT: Mr. Parrino.

BY MR. PARRINO:

Q Now, Mr. Solli, before I begin with these questions that I have of you, I would like to have this understood with you, if I may, please: That under the law the Court, myself as the prosecuting attorney, and defense counsel are given the opportunity of questioning you at this time to determine whether or not you and other persons who will be seated here as jurors possess certain qualifications established by law to be of service in this case.

Do I make myself clear?

A Yes, sir.

Q And the purpose of these questions are not designed or intended by myself to inquire into your personal background for any personal purposes of my own, but they are elicited generally to determine whether or not you possess certain

qualifications fixed by law to serve in this case.

Now, all of the persons that participate in this trial have certain fixed duties. I am sure that you appreciate that Judge Blythin presides over this trial, and those are his functions. Counsel for the defendant, representing the defendant, will see to it that the defense is presented in its best light, as similarly, the prosecution has its function of presenting evidence to support the indictment or the charge against the defendant in this case.

Now, jurors, of course, have the function to listen to the evidence, to take the law as it comes to you from the Court, and on the basis of these factors, to arrive at a just verdict.

Now, what is your wife's name, please, sir?

A Paula.

Q And I do not recall whether the Court asked you as to whether or not she is employed. Is she employed?

A Not at this moment, no.

Q And has she been employed recently?

A Yes, sir.

Q And where did she work, sir?

A American Steel and Wire, Cuyahoga Works.

Q And how long ago was that, please?

A I think it was -- last May was the last time she worked. She got laid off.

Q And what type of work did she do?

A She was a spark tester in the wire mill.

Q And for what period of time had she worked at that place?

A Not exactly, but it's about a little over a year, that I know.

Q Your boy 19 years of age, what is his name, please?

A Thomas, Jr.

Q And is he employed?

A No. He is still going to school.

Q What school does he go to?

A South High School, sir.

Q And the girl 16, I presume she goes to South High?

A She goes to South High, too.

Q And the daughter eight years of age, where does she go?

A She goes to Transfiguration.

Q Yes. I know where it is, on Broadway.

A Yes.

Q Have you ever served as a juror before?

A No, sir.

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

A No, sir.

Q Now, you say that you have read some little comment about this case, is that correct, Mr. Solli?

A Yes.

Q Do you recall when it was that you first read something about this case, please?

A Oh, I don't know. I don't remember.

Q Do you recall whether or not it was at or about the time that this thing happened, on July 4, 1954?

A It was some time later. I'm not sure.

Q And I presume, Mr. Solli, that you read more than one article about the matter, did you?

A Well, headlines and stuff like that, you know, people talk. You know, you don't much attention to that, anyway, what you hear.

Q I take it, then, that you did not read all of the articles in their entirety, is that correct?

A Yes.

Q And that people have spoken to you about the case and you have spoken to them about it, have you?

A Well, on and off.

Q In a general way?

A Well, you know.

Q And as a result of speaking to people and as a result of reading some little about the case, have you formed an opinion one way or the other as to the guilt or the innocence either way?

A No.

Q Of Sam Sheppard?

A No, no, sir.

Q Now, I take it, then, Mr. Solli, that this is your position: That you will come into this courtroom, as do other prospective jurors, you will have your mind free and clear of all the events that are alleged to have taken place on and about July 4th, 1954; that you will take the evidence solely and completely as it comes to you from the witness stand and disregard that which you have heard or read previously about the case; is that your position, sir?

A Yes, sir.

Q Now, will you permit me to explain to you, if I may, briefly, in a general way, the manner in which we will proceed in this case and as to just what a case of this kind consists of. In both these criminal courts and in the civil courts a trial consists of the law and the evidence.

Now, by the evidence is meant that testimony which comes to the jurors from the very place in which you are now seated, from the witness stand. In other words, I anticipate that numerous people will testify in this case on behalf of the State of Ohio, the prosecution, that is, and on behalf of the defendant, and it will be the function of the jury to listen attentively, which I am sure you will do, to all of the witnesses for both sides in an effort to determine exactly what the facts are.

Now, there also may be certain exhibits, and by

exhibits I mean instruments in writing, photographs, objects of various kinds, that may be introduced into the evidence by both sides, and that also is a part of the evidence, along with the spoken word which comes to you from the witness stand, which you as jurors --

THE COURT: Pardon me.

MR. GARMONE: It just got warmed up.

MR. PARRINO: I didn't know my voice would affect it that way.

THE COURT: Is that ours or is that something else?

MR. MAHON: It's this one.

(The above discussion referred to the microphone.)

Q (Continuing) -- so that, Mr. Solli, on the basis of what the witnesses say, on the basis of the exhibits that may be offered, you, as a juror, along with the other jurors which will be selected, will determine exactly what the facts are in this case.

Do I make myself clear?

A Yes, sir.

Q And you are the judges of the facts. No one in this courtroom, including myself, as the prosecuting attorney, or Mr. Corrigan or Mr. Garmone, or any of the defense counsel, or indeed, Judge Blythin, himself, can state and describe to the

jury what the facts are, in other words, what happened at the time and place. The jury determines what the facts are on the basis of what you have heard from the witness stand and from the exhibits.

Do I make myself clear, sir?

A Yes, sir.

Q Now, after all of the evidence has been completed, after the testimony of all of the witnesses has been put in, then Judge Blythin will describe for you what constitutes the law in this case. In other words, in a civil case, I am sure that you appreciate that there are certain positive rules of law that would apply where one person is suing another for personal property damage or on a contract, but here in the Criminal Court there are also certain fixed rules of law that apply, and Judge Blythin, with his vast experience, will state to you and describe for you what constitutes the law in this case of the State of Ohio versus Sam Sheppard, and it will be your duty to listen carefully to that description of law and take it and apply it in this case. Will you do that, please?

A Yes, sir.

Q So that if you have any ideas of your own as to what you think the law is or what it should be, you are obligated, and I am sure that you will set aside whatever ideas you may have and take and accept exclusively and solely the law

that Judge Blythin gives to you at the conclusion of the evidence. Will you do that, please?

A Yes, sir.

Q Now, for instance, the State of Ohio, according to -- withdraw that.

The defendant in this case, according to the indictment, is charged with the crime of murder in the first degree. Now, the indictment is an instrument that I have here before me in my hand, and the indictment is an instrument which will go with you to the jury room. Now, an indictment is a charge of crime against a defendant, placed against him by the Grand Jury sitting in Cuyahoga County.

Now, I might add that in the Grand Jury the witnesses that are presented before that body are the witnesses on behalf of the State alone. In other words, neither the defendant nor his counsel nor his witnesses have an opportunity to appear before the Grand Jury, but I hasten to add, Mr. Solli, that that is not unusual in the case of Sam Sheppard -- of the State of Ohio versus Sam Sheppard, that that is the case in all criminal cases, in all indictments where evidence is presented to that body. So that in this indictment the defendant is charged with unlawfully, purposely and of deliberate and premeditated malice killing Marilyn Sheppard.

Now, it is incumbent upon the State of Ohio to prove

each and every of the elements of that indictment to support a conviction. Now, in the event that the prosecution or the State has not proved those elements of that indictment, insofar as the indictment is concerned, I am sure that you and the other jurors will return a verdict of not guilty; isn't that correct, sir?

A Yes, sir.

Q But, on the other hand, Mr. Solli, if after you have considered all of the evidence very carefully, you have perused the indictment, you have weighed the elements in that indictment, and you and the other jurors, after considering carefully all of the mass of evidence that is here offered, and you are convinced beyond a reasonable doubt of the guilt of this defendant, will you have any hesitancy whatever in returning a verdict of guilty as charged in the indictment?

A Now, there is one word I didn't understand there.

Q I will be glad to attempt to explain anything at all, Mr. Solli.

A Well, if you just can repeat it.

Q Yes, I will. Now, assuming that you have heard all of the evidence in the case and you are convinced, you and the other jurors are convinced beyond a reasonable doubt that the defendant is guilty, in that case you will not hesitate to return a verdict of guilty as charged in the indictment, will you, sir?

A Well --

Q I don't think that I am making myself clear.

THE COURT: Let me just ask him your question, if I may.

Mr. Parrino is asking you: If you should become convinced that the evidence shows the defendant to be guilty beyond a reasonable doubt, will you hesitate to find him guilty?

PROSP. JUROR SOLLI: No.

MR. PARRINO: Thank you very much, Judge.

Q Now, Mr. Solli, I might state to you that, generally speaking, in our courts there are two types of evidence. There is direct evidence and there is circumstantial evidence. The Court will explain to you in his Charge, I feel sure, that both of these types of evidence, direct evidence and circumstantial evidence, are competent evidence to be produced in a court of law. Do I make myself clear?

A Yes, sir.

Q And I feel sure that the Court will instruct you that the State may have a conviction in this case based upon circumstantial evidence, if that evidence convinces you of the guilt of the defendant beyond a reasonable doubt. Do I make myself clear?

A Yes, sir.

Q Now, will you follow the Court's instructions on that subject of circumstantial evidence at the time that he charges you on it? Will you do that, please?

A Yes, sir.

Q Now, Mr. Solli, being the judge of the facts in this case, in other words, the jury being the judges of the facts, as I have previously stated to you, it will be for you to listen to the witnesses as they testify and to weigh their testimony. In other words, there will be any number of people testifying in this case that come to this witness stand from various and numerous walks of life. In other words, the probabilities are that we will have police officers, we will have doctors, and perhaps professional people from various other fields.

Now, as the judge of the facts, it will be your duty to weigh the testimony of all these people on an equal basis, in other words, merely because some public official may testify that may have a title, you would not give him more credence than ^{you would} some other person that does not have a title. In other words, also, if a person would testify who was a doctor, you would not give him more credence than a layman.

What I mean to say, Mr. Solli, is this: That you, being a judge of the facts, will determine the weight that you will give to the testimony of a particular witness by what

he says on the witness stand, by the manner in which he says it, by his knowledge of what he is talking about, and not particularly because of a title that he may or may not have. Do I make myself clear?

A Yes, sir.

Q In other words, if a person would come in here, the President of the United States would testify as to a particular point, his testimony as to what he saw or what he heard at a particular time should not be given any more weight merely because he has the title of President of the United States, but you should weigh his testimony on the basis of what he knows, what he saw, his ability to interpret what he saw and things of that character. Do I make myself clear?

A Yes, sir.

Q And will you judge witnesses on that basis?

A Yes, sir.

Q Now, then, when a police officer testifies, you won't give to the testimony of a police officer more weight merely because he is a police officer, will you?

A No, sir.

Q And if a doctor testifies in this case, you won't give more weight to the testimony of a doctor merely because he is a doctor, will you?

A No, sir.

Q You and the other jurors will listen to what these people have

to say, and on the basis of your experience will judge and determine the weight that you will give to them, regardless of any title or station in life; is that your position, sir?

A Yes, sir.

Q Now, Mr. Solli, I think that you can easily appreciate the importance of this case. The defendant is charged with the crime of murder in the first degree. Now, in the State of Ohio the law provides that in such case where a jury listens to the evidence and returns a verdict of guilty without a recommendation of mercy, in that case the penalty shall be death in the electric chair. You understand that, don't you?

A Yes, sir.

Q And in a proper case, properly proven by all of the facts and circumstances in evidence, you feel that you can enter into a verdict which might take a human life, is that correct, Mr. Solli?

A Yes, sir.

Q And I am sure that you realize and appreciate the seriousness and the importance of an undertaking of that kind; that is true, isn't it, sir?

A Yes, sir.

Q And you are willing, sir, to undertake that responsibility at this time, is that correct?

A Yes, sir.

Q Now, I am sure that you appreciate that in a court of law all cases must be judged on the basis of these two factors that I have previously described to you. These cases must be judged strictly and solely on the facts and on the law, without any other consideration, is that correct, sir, on the facts as you hear them from the witness stand and on the law that Judge Blythin gives to you, that and that alone?

A Yes, sir.

Q And that you will judge and determine the guilt or the innocence of the defendant without any feelings of bias against him, you will do that, will you not?

A Yes, sir.

Q Or prejudice against him, you will do that, will you not, sir?

A Yes, sir.

Q And, on the other hand, you will arrive at your verdict without any feelings of sympathy for the defendant or for anyone in this case, is that correct?

A Yes, sir.

Q So without sympathy, bias, one way or the other, on the basis of law and on the basis of fact, you will arrive at what is, in your best judgment, a just and fair verdict, will you do that, sir?

A Yes, sir.

Q Now, Mr. Solli, I could stand here before you and question you at considerable length, ask you many questions concerning your personal background and that of your family, but I don't think that that is necessary at this time. I think, however, I neglected to state to you that there is one further reason, perhaps, why the law permits this questioning of jurors at this time, and that is so that you, as an individual juror, and these three people that sit here in the box, may be convinced in your own minds and satisfied in your minds that you can be of service in this case, that you can feel that in your own heart you can be a just and a fair juror in a case of this kind; and, sir, you are the only one, really, that can answer that question, and I am sure that you will give an honest answer.

Based upon what Judge Blythin has stated to you, based upon what little you have read about this case, based upon what slight comment you have heard about this case from various sources, based upon the questions that I have asked you, based upon the thinking that you have in your mind at this moment and especially for the last three days, I ask you if you will, please, to examine your mind and tell me, the Court and all of the gentlemen that sit at this table, whether or not you feel that there is any possible reason why you could not or would prefer not to serve as a juror in the

case of the State of Ohio versus Sam Sheppard? Can you think of any possible reason, sir?

A No.

Q You will listen to the facts, you will listen to the law, you will come to a just verdict and let the chips fall where they may; will you do that, please?

A I will.

MR. PARRINO: Thank you very much.

Pass for cause.

THE COURT: There is one question

I would like to ask you, Mr. Solli.

BY THE COURT:

Q Have you since this happening on the 4th day of July received any communication of any kind from anybody in any manner about this case or about the Sheppard family, or about any subject involved here?

A No, sir.

Q You did not receive anything in the mail?

A Oh, yes. Well, I didn't pay much attention to it anyway. I never looked at that mail. They brought me two cards, or the wife --

Q Have you got it with you?

A Oh, no. I don't pay much attention to that.

Q I am showing you now Exhibits A-3 and A-4. We marked these things here, and that is what we call these. Will you just

look at those two, and see if you believe that those really at what you also received?

A Well, I just seen -- I think it is, but I didn't read it. You know what I mean, the wife, she opened it up, and I just looked at the picture and that was all. We didn't talk about it, either.

Q And did you, for instance, see these pictures before? Were those in your package?

A What do you mean, your Honor?

Q Was there one of these in your package?

A There was both of them, I think. There was two of them there, but --

Q And is it your belief that what you received was the same as these?

A I don't know exactly, to tell you the truth, now. I just noticed the picture.

Q Is it in substance the same as these? Does it look like these?

A It's something like this here, but I didn't pay much attention to it.

Q And have you looked at it enough to have any influence at all upon you?

A No, sir. No, your Honor.

Q I want to say to you what has been said to others. There is nobody -- have you any idea who sent that to you?

A No, sir.

Q Well, I want to tell you what I have told others, that there is nobody here who believes that the Sheppard family or any of their friends had anything whatever to do with those. Do you understand what I mean?

A Yes, sir.

Q All right.

THE COURT:

Now, Mr. Corrigan or

Mr. Garmone.

BY MR. GARMONE:

Q Mr. Solli, my name is Garmone, and I am one of the lawyers that is associated in the defense of Sam Sheppard, along with Mr. Corrigan, Mr. Petersilge and Mr. Corrigan, Jr. Some of the questions that I will ask you probably will be repetitious to the questions that were asked by Mr. Parrino, so you will have to be a little more patient with me.

Now, you stated that you had read some articles and you had received this letter that the Court has marked as an exhibit, and you have come to no opinion in this matter, one way or another; that is correct?

A Yes, sir.

Q You have listened to some radio broadcasts and some television shows or television casts, telecasts which referred to the Sheppard matter, and as a result of gathering those facts by those mediums, you came to no opinion in this matter,

is that correct?

A No, sir -- yes, sir. ✓

Q Now, Mr. Parrino stated that the case here is divided into two distinct programs, one of which has to do with the facts and one of which has to do with the law. That was correct. However, on the question of fact, the Court will instruct you that it is the law in the State of Ohio that the facts that you are to consider in determining the outcome of this case are facts that you hear only in this courtroom and no remarks that you may hear in your travel to and from Court or from any persons that you may come in contact with during the course of the trial. Will you follow those instructions?

A Yes, sir.

Q On the question of fact, Mr. Solli, it is the law of the State of Ohio that you are the sole judge of those facts. I, as a lawyer, sir, for Sam Sheppard, cannot interfere with that authority that is given you; John Mahon, one of the representatives of the Prosecutor's office in the prosecution of this case, cannot interfere, and the law has gone so far to say to you that if you are chosen as a juror, that even his Honor, Judge Blythin, cannot trespass on that authority that you and you alone are the sole judge of those facts. And will you follow that theory of law?

A Yes, sir.

Q Now, when we come to the question of what law shall be

9 applicable to the facts that you hear in the courtroom, Judge Blythin is the sole judge of that situation, and you and I may have some notion as to what the law ought to be or should be. There are times when I disagree with the Judge as to what he thinks the law is and what I think the law is, but in the long run, I've got to follow his final decision.

Now, if you have some notions of what the law should be or ought to be, would you set those aside and follow only that law that Judge Blythin will tell you is applicable to the facts that you hear in this case?

A Yes, sir.

Q Now, in your discussion of this matter with anyone, has anyone in your family expressed an opinion regarding the guilt or innocence of Sam Sheppard?

A Oh, no, sir.

Q None at all?

A No, sir.

Q And has anyone at your place of employment expressed an opinion to you about whether Sam Sheppard is guilty or innocent?

A We don't talk about it.

Q You don't talk about it?

A No, sir.

Q Then you have come here with an open mind, is that right?

A Yes, sir.

Q No prejudices?

A No, sir.

Q And no preconceived ideas of this matter whatsoever?

A No, sir.

Q Now, there will be a good many people testify in this case.

There will be doctors, police officers, and we anticipate that there will be some members who are connected with the sheriff's office of Cuyahoga County. Would the fact that these people are police officers give you reason to treat their testimony with greater consideration and weight because they are police officers than you would an ordinary layman who would testify in this case?

A No, sir.

Q You would treat them both alike?

A Yes, sir.

Q Now, we anticipate that there will be doctors who are connected with the County Coroner's office. The County Coroner of our county is Dr. Gerber. Do you know him?

A No, sir.

Q He has in his office a Dr. Adelson. Do you know him?

A No, sir.

Q And a Dr. Sunshine. Do you know him?

A No, sir.

Q And in his office is a Dr. Chamberlain. Have you ever heard

of him?

A No, sir.

Q And he has a Mary Cowan there. Do you know her?

A No, sir.

Q Now, those people may be called upon to testify and submit for your consideration testimony that will have a bearing on the outcome of the issues. Do you feel that because they are doctors who are associated with the County Coroner's office, which is a division of our County Government, and for that reason should be given greater consideration in their testimony than some doctors that would be brought in to testify on the same statement of fact by the defense, or would you treat them both alike?

A Treat them both alike.

Q You wouldn't give their testimony any greater weight because they come from the Coroner's office, is that correct?

A Yes.

Q You would open-minded about it?

A Yes, sir.

Q Listen to the facts and come to your own conclusion as to who should be believed and who should be disbelieved, is that correct?

A Yes, sir.

Q Now, in this case there will be some testimony that Sam Sheppard some time during his married life had affairs with

women other than his wife. Would you, when that testimony is given to you for your consideration and on that testimony and that testimony alone, feel in your mind that it would cause you to become prejudiced or develop any ill-feeling toward the defendant, Sam Sheppard? ✓

MR. DANACEAU: Objection.

THE COURT: Objection sustained.

MR. GARMONE: Exception. ✓

THE COURT: You need not answer

that question.

Q Well, Mr. Solli, if there is submitted for your consideration testimony by women, who testify that they have some knowledge of Sam's intimacies, would that cause you to become prejudiced or would it cause you to develop an ill-feeling toward the defendant, Sam Sheppard? ✓

MR. MAHON: Objection. ✓

MR. DANACEAU: Objection.

THE COURT: Objection sustained.

MR. GARMONE: Exception.

Q If you are called upon to listen to testimony by a number of women who have some knowledge of Sam Sheppard's life, and those facts have nothing to do with the elements that constitute first degree murder, the necessary elements that constitute first degree murder, would you on that and that alone return a verdict of guilty?

MR. DANACEAU: Objection.

MR. MAHON: Objection.

THE COURT: I am not sure but what that is a proper question, Mr. Mahon.

Q Will you answer that?

A I didn't quite get it.

THE COURT: You put it rather involved, Mr. Garmone, and I know it is difficult. Let me see if I can brief it.

MR. GARMONE: I will have the Court put the question to him.

THE COURT: Let me see if I can brief it, and if I am not doing it correctly, please state so that we will stop right there.

MR. GARMONE: All right.

THE COURT: What Mr. Garmone is asking you now is that if there should be testimony in this case that has really no bearing directly on the elements of the crime in this case, would you on the basis of that testimony alone arrive at a conclusion of guilty?

Is that the question?

MR. MAHON: I want to object to the form that the Court put it in.

MR. GARMONE: Your question is proper,

your Honor, if you will insert the word "women."

THE COURT: All right. Listen to the question again.

MR. GARMONE: Insert the word "women."

THE COURT: Let's hear the question, please.

(Thereupon the question was read as follows:

"If you are called upon to listen to testimony by a number of women who have some knowledge of Sam's life, and those facts have nothing to do with the elements that constitute first degree murder, the necessary elements that constitute first degree murder, would you on that and that alone return a verdict of guilty?")

MR. MAHON: Objection to that question, Mr. Garmone.

THE COURT: Yes. I think that is objectionable, Mr. Garmone. The objection will be sustained.

MR. GARMONE: Read the Court's question, please.

(Question read by the Reporter.)

THE COURT: I think that is also objectionable.

MR. MAHON: I object to that, too,
your Honor.

MR. GARMONE: The Court is sustaining
the objection to his own question? ✓

THE COURT: Yes. I am objecting to
my own question. ✓

MR. GARMONE: That is unusual.

THE COURT: It is, but we do
unusual things around here once in a while. I think
it is objectionable. I don't think it is a correct
basis. I think perhaps you can get the information
you want in some other form, but I am sure we are
including something here that is not correct.

BY MR. GARMONE:

Q You may be called upon, Mr. Solli, to digest facts that
will be given to you by many witnesses, some of whom are
women. If those facts have no bearing on what constitute
the necessary elements of first degree murder, as set out in
this indictment, would you disregard those? ✓

MR. DANACEAU: Objection. ✓

THE COURT: Objection sustained.

I am perfectly willing to state to you the
grounds, Mr. Garmone, from the Court's viewpoint,
at least. There undoubtedly will be evidence that
doesn't directly bear upon the elements of the crime,

but nevertheless is entitled to perhaps some consideration by the jury as to those things on which they arrive at their final conclusions on the main evidence itself.

MR. GARMONE: Well, now, on the statement just made by the Court, then, if there are some elements that may be correlated to the real issues that this man has to consider in arriving at a fair verdict, then am I stopped from inquiring into facts that you, yourself, say may be considered and correlated into the essential elements that constitute first degree murder so that I can determine now whether this juror can be fair and impartial and not have any prejudices or biases when he hears those facts?

I believe this, and I reiterate a statement that I made to your Honor yesterday, that once Mr. Solli, or once any of these three prospective jurors have taken the oath and accepted the responsibility to fairly and impartially try this young man, the speculation that goes with stopping us from inquiring into this particular matter is gone. We can't afford to speculate with the thoughts that this man may have on that subject matter, we can't afford to speculate with the thoughts

that Mr. Barrish or Mrs. Borke or Mr. Verlinger may have. I think we have a right to know now whether they would be prejudiced or biased --

THE COURT: Well, you would if we knew what the testimony was going to be and its relation to this case, but we do not know that now and we have no means of knowing it.

BY MR. GARMONE:

Q Would a set of particular facts that you may hear which have no bearing on the case of the State of Ohio versus Sam Sheppard prejudice you in any way?

MR. MAHON: Objection to that, if your Honor please.

MR. GARMONE: I think that is a simple question.

1 MR. MAHON: If your Honor please, they are trying to delve these questions into the mind of the juror as to what he will do with certain evidence that is produced in Court. Now, if there is evidence that is produced here or questions asked to produce evidence that has no bearing upon the case, that will be ruled out by the Court at the time the question is asked or the answer given. I don't think we have a right at this time to delve into what reaction a juror might have

on certain evidence that is produced during the course of the trial. If the evidence is improper at the time that it is offered, the Court then can rule it out and instruct the jury to disregard that evidence.

THE COURT: Let me have that question again so we are sure.

(Last question read by the Reporter.)

THE COURT: Objection sustained.

Q Would a set of particular facts developed by the prosecution during the course of the trial that had no bearing on the necessary elements that constitute first degree murder, after which the Court -- withdraw that.

Would a set of particular facts that might be brought into evidence which have no bearing on this case, and should you be instructed by the Court at the time that those facts are offered for your consideration that you are to disregard them and form no prejudices or biases toward this defendant as a result of having heard them, would you follow those instructions?

A (No response.)

Q If certain facts were offered by the State of Ohio that have no bearing on this case whatever, and the Court tells you after a particular witness has answered a question relating to those particular facts that you are to dismiss from your

mind those facts because they have no bearing whatsoever on the charge set out in the indictment, would you follow his Honor, Judge Blythin's instructions on that?

A Yes, sir.

Q No question about it?

A No.

Q You would do that?

A Yes, sir.

Q Now, Mr. Solli, our interest and only interest in this matter at this time is to make an effort in getting a jury that will be fair and impartial to this young man. You have been asked a lot of questions. I have asked some, Mr. Parrino has asked some, the Court has asked some. Can you give Sam Sheppard a fair trial?

A Yes, sir.

Q Can you take your place in that jury box, if you are chosen, with an open mind, without any prejudices and without any biases, and be fair to this young man?

A Yes, sir.

Q You see, all we ask is that he be afforded the same opportunity to begin from the same starting line that the State of Ohio starts from. And you can give us that chance, can't you?

A Yes, sir.

Q You see, the reason I ask those questions is because as this

young man sits there he is presumed to be innocent, and the Court will so tell you, and that presumption remains with him throughout the entire trial. And should the State of Ohio fail to prove beyond a reasonable doubt, convince you beyond a reasonable doubt of his guilt, would you hesitate to join in a verdict of not guilty?

A Yes, sir.

Q You wouldn't hesitate?

A No, sir.

Q To bring in a verdict of not guilty, is that correct?

A Yes, sir.

Q Now, when I talk about the burden of proof that they must establish beyond a reasonable doubt, that burden never changes, it is always with the State, and it never moves over to the other side of the table. It is incumbent on the State of Ohio to convince you throughout this trial beyond a reasonable doubt as to the guilt of Sam Sheppard, and his Honor, Judge Blythin, will so instruct you. Will you follow that principle of law?

A Yes, sir.

Q Now, as Sam Sheppard sits there clothed with the presumption of innocence, you don't feel that it would be incumbent upon him, should the State of Ohio fail to prove to you by evidence beyond a reasonable doubt of his guilt, for him to submit any testimony to prove his innocence; you don't believe

in that theory of law, do you?

A Repeat that, sir.

Q If the State fails to prove to you his guilt beyond a reasonable doubt, you don't think it is necessary for Sam to offer any testimony to prove his innocence, do you?

A No, sir.

Q You see, we ask these questions not because we are making an effort to find out how much you know or how much I know. There is a great responsibility in this courtroom, the responsibility is terrific. That is easily witnessed by the vast number of reporters, members of different newspapers throughout the country, people representing radio and television stations. They cause me a little fear sometime when I get up here to examine, and I don't know what effect they may have on you, but they do have an effect on me. Do they have any effect on you?

A Well, I don't pay much attention to it, anyway.

Q You don't pay any attention to it?

A That's right.

Q Well, you are -- your nerves are a good deal better than mine.

A I'm shaking a little bit.

Q You are shaking a little bit?

A Yes.

Q Because of their presence, is that right?

A This is the first time --

MR. MAHON: He didn't say that.

Q But getting back to my original thought about the great responsibility, the lawyers have responsibilities, the Judge has a responsibility, but in the final analysis, your responsibility will be greater than any of the other contestants in this case. You will be called upon to exercise a vote which will determine the guilt or innocence of Sam Sheppard, and in this particular case, Mr. Solli, you shall be called upon to exercise a vote that may take the life of a fellow citizen.

Now, I could ask you many questions, but I feel that this interrogation is most important to all people concerned, and I ask you now to search your conscience with great care because it is your conscience and you must live with it, and tell me if there is any doubt in your mind that you can give that young man a fair and impartial trial?

A Yes, sir.

Q You can?

A Yes, sir.

MR. GARMONE: Thank you very much.

THE COURT: Mr. Solli, will you be kind enough to take Seat No. 4?

(Thereupon Mr. Solli was seated in Seat No. 4.)

THE COURT: I am addressing myself to

the lady and the three gentlemen in the jury chairs now. We are going to have a few minutes' recess, and you will please return to your jury room, and will you be careful not to discuss what took place here, discuss any feature of this case in any way, shape or manner with anybody during the recess?

We will call you down as soon as we are ready. We will have a few minutes' recess at this time.