

Thereupon ANN W. FOOTE, being first duly sworn, was examined and testified as follows:

EXAMINATION OF PROS. JUROR ANN W. FOOTE

By the Court:

Q Do I understand your name is Anna W. Foot? ✓

A No. It is Ann W. Foot. Just Ann.

Q Just Ann?

A Yes.

Q Ann W. Foote, not Anna. You live at 2091 Warren Road?

A Yes.

Q Is that in Lakewood or in Cleveland?

A Lakewood.

THE COURT: May we have quiet, please? ✓

MR. MAHON: What is the address,
again?

THE COURT: 2091 Warren Road in
Lakewood.

Q Is it Mrs. or Miss?

A Mrs.

Q Mrs. Foote, what is your husband's name, please?

A William.

Q How long have you folks lived at that address?

A Four years.

Q And where did you live before that?

A Out near the airport.

Q You lived in Lakewood?

A No. Cleveland.

Q And have you folks a family?

A Yes. I have five children.

Q And how old are they?

A They range from 15 to 7.

Q Are they boys or girls?

A Three boys and two girls.

Q And what is your husband's occupation or profession?

A He is a salesman.

Q Who is he salesman for?

A Guthery-Schreiber Chevrolet.

Q How long has he been in that business?

A For five years.

Q Have you ever served on a jury before?

A No, your Honor.

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

A No.

Q When I speak of your family, I am speaking of your own and your husband's, if we may put them together.

A Yes.

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

A No, sir.

Q Now, I am assuming that you were here on Wednesday -- on Monday morning and heard the Court mention who these good people were around this table. Do you know any of them?

A No, sir.

Q Do you know Mr. Cullitan, the County prosecuting attorney of this County, 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?

A No, sir.

Q Do you folks have anyone in your families who is a member of a police department anywhere, or a member of any law-enforcing agency of any character?

A No, sir.

Q Have you heard of this case that is here now, the State against Sam H. Sheppard? ✓

A Yes, sir. ✓

Q By what means have you heard? If more than one, what are they?

A From newspapers. ✓

Q Newspapers. Radio? ✓

A Radio, television.

Q And have you discussed the matter with anyone?

A It's been a conversation. ✓

Q Just ordinary conversation?

A Just ordinary conversation.

Q And as a result of what you have seen or what you have heard by those media, have you formed any opinion as to the guilt or innocence of Dr. Sheppard?

A No. There's been no opinion, sir.

Q You understand that the function of a jury is to determine what the facts are; they decide the guilt or innocence of a person charged with crime, and they do so on the basis of the evidence in the courtroom and the instructions of the Court as to the law. They are supposed to do that, and they are to weigh the evidence of every person that testifies without regard to his station in life, no matter whether he holds public office or not, whether he is considered an important person in the community or not. All people are alike on this witness stand.

Even though you have heard and discussed -- heard of and discussed this case with others, could you now, if selected as a juror here, sit here patiently, listen to the evidence and the instructions of the Court, and without regard to anything you have heard or read about the case, arrive at a conclusion based on what you hear in this courtroom from this witness stand?

A Yes, sir.

Q You are satisfied you will do that?

A Yes.

Q Have you, Mrs. Foote, since the 4th day of July of this year, received any communication of any kind or any nature from anyone?

A No, sir.

Q And no one has officially talked to you or sent you any communication of any kind other than the summons to come here now?

A No, sir.

Q I would like to ask you if, in a proper case, as such a case will be defined to you by the Court -- I will put it in another way.

Do you have any objection to capital punishment in a proper case as that case will be defined to you by the Court?

A No, sir.

Q And are you satisfied -- you understand that we are here trying to get a group of people who will be perfectly fair and impartial, who will listen to the evidence and the law and be guided entirely by those. Are you satisfied that if selected as a juror here you could do that fairly and impartially?

A Yes.

THE COURT:

Mr. Parrino.

EXAMINATION OF PROS. JUROR ANN W. FOOTE

By Mr. Parrino:

Q Mrs. Foote, with your permission, I am about to ask you some questions that certainly will appear to be and are rather personal in their nature, but these are designed and intended to elicit from you certain information to determine that you possess the requisite qualifications to serve as a juror in this case, which I am sure you are perfectly free and willing to give at this time, is that correct?

A Yes, sir.

Q Now, Mrs. Foote, where does your oldest boy attend school, please, or your oldest child? Is that a boy or a girl?

A It is a boy. Harding Junior High School.

Q And where do the other children attend?

A The three oldest are in Harding Junior High, and the two youngest are in Roosevelt Grade School.

Q Fine. Now, you say that your husband, William, has been employed by the Guthery-Schreiber Chevrolet for a period of some five years?

A Yes.

Q What was his employment before that, please?

A He worked at the Cleveland Trust Bank.

Q In what capacity?

A Teller.

- Q And for what period of time did he work there, approximately?
- A I imagine it would be four years, approximately.
- Q Now, have you ever been employed outside of the home?
- A Yes, before my marriage.
- Q What type of work was it that you were engaged in?
- A Secretarial.
- Q By whom were you employed?
- A The Ohio Public Service & Brush Development.
- Q In a general way, would you state to the Court and the persons in this courtroom the general business in which that company was engaged?
- A Well, The Ohio Public Service with the City Service Company and its subsidiaries, light and power. And Brush Development was specializing in crystals.
- Q And for what period of time did you work for that company?
- A The Ohio Public Service?
- Q Yes.
- A For a period of three years, I believe.
- Q And during all that time you say you were employed as a secretary, is that correct?
- A Yes. Stenographer-secretary, both.
- Q Would you be good enough to tell me, Mrs. Foote, as to where you went to school?
- A Shaker High School.
- Q And you graduated from that school, I take it?

A That's right.

Q And upon your graduation from Shaker High did you attend any other schools?

A Dyke School of Commerce.

Q And what training did you have at Dyke School of Commerce?

A Stenographic course.

Q And for what period of time did you attend there?

A I believe it was a six-month period.

Q Now, what school did your husband attend, if you know, please?

A Jefferson School in Jefferson, New York.

Q That is Jefferson High School?

A Yes.

Q And did he receive any training beyond that?

A Yes. He went to Eastman School of Music in Rochester, New York, for five years.

Q Now, as a result of the Court's inquiry here this afternoon and on Monday, you have stated, Mrs. Foote, that you are not acquainted with any of the persons who will participate in this lawsuit, is that correct?

A That's correct.

Q And that you are not acquainted with anyone who was employed at Bay View Hospital, is that correct?

A That's correct.

Q You have further stated that although you have read and

heard something about this case, that you will be in a position to set aside any of the thoughts you may have or statements you have heard and come into this courtroom as a fair-minded juror and take the evidence only as it comes to you from the witness stand during the course of the trial?

A Yes, sir.

Q Will you do that, please?

A Yes.

Q Of course, I think you stated that you have never served as a juror before?

A No, sir.

Q Is that a fact?

A No, sir.

Q And never appeared as a witness before, either, is that correct?

A That's correct.

Q This is your first time in a court of law, is that correct?

A Yes.

Q Now, I might state to you just generally, Mrs. Foote, and I feel sure that you already know this, that, in a general way, a trial is divided into two separate halves:

On one half we have the law as it comes to you from Judge Blythin in this case, and on the other half we have the facts or the evidence as it comes to you from the witness stand.

Now, it will be your job as a juror, along with eleven other persons, to sit in this courtroom, to listen to the testimony of many witnesses, I anticipate, to the testimony of many witnesses in an effort to specifically determine what the truth and actual facts are that apply in this case, and I ask you will you do that? Will you sit here patiently and give to all of the proceedings here your undivided interest and attention to determine what the facts are? Will you do that?

A Yes, sir.

Q Now, at the conclusion of all of the mass of testimony that may here develop, which will, as I say, consist of the spoken word from the witness stand, from any exhibits that may be offered by both sides, and after all of that has been completed, then his Honor, Judge Blythin, will specifically set forth and describe the law that applies in this case. In other words, there will be many facets of law that will be peculiar to this case and will be most important, and I ask you if you will listen carefully to those instructions of the Court? Will you do that, please?

A Yes.

Q And will you follow those instructions of the Court?

A Yes, sir.

Q Now, among the many things that Judge Blythin will say to you will be that in a criminal case, regardless of what the case

may be, whether it is the case of the State of Ohio versus Sam Sheppard, charged with murder in the first degree, or any trial whatsoever, any defendant is in law clothed with what we call a presumption of innocence. Should the Court instruct you as to that being the law, will you follow his instructions as to that law?

49 A Yes, sir.

Q Now, he will further state this to you: That this presumption of innocence that rests with the defendant, will rest with him now at the beginning of the trial and will continue to rest with him throughout the trial until such time arrives, should such time arrive, that you are convinced in your mind beyond a reasonable doubt of his guilt. Should Judge Blythin state to you that that is the law of the State of Ohio, Will you take that instruction and apply it to the facts in this case? Will you do that, please?

A Yes.

Q Now, we have here a defendant, Sam Sheppard, who is charged by the Grand Jury of Cuyahoga County with a crime of murder in the first degree. Now, you will have a copy of this indictment with you in your jury room at the conclusion of this trial, and the Court will state to you that that indictment, that instrument which you have with you, in and of itself is not evidence. Will you follow the Court's instructions on that subject?

A Yes, sir.

Q Now, an indictment is merely a formal instrument by this body of Grand Jurors fixing a certain crime against a particular person so that he may be apprised of that with which he is charged when he comes to trial. Do I make myself clear?

A Yes, sir.

Q Well, in other words, an indictment is an instrument that tells a defendant what he is charged with so that when he comes to trial he can face that charge more properly. Do I make myself clear?

A Yes, sir.

Q Now, the Court has stated to you that Sam Sheppard, in this indictment, is charged with the crime of murder in the first degree, which is certainly a very serious charge. Under the laws of the State of Ohio it is provided that where a jury listens to such a case and returns a verdict of guilty and does not extend mercy, that in such case penalty shall be death in the electric chair. You understand that to be the law, do you?

A Yes.

Q And as I understand your position, Mrs. Foote, you have no objections to capital punishment, is that correct?

A No, sir.

Q And in a proper case that is properly proven by all of the

facts and circumstances, you could enter into such a verdict, is that correct?

A Yes, sir.

Q Now, of course, you realize that everybody that sits at this trial table and the Court, the stenographer and these jurors, we all have our special function in this case. The Court's function is to preside over these proceedings, to see that the State of Ohio gets a fair trial and to see to it especially that the defendant, Sam Sheppard, gets a fair trial. Therefore, he will, in charging this jury, state many things to you, as I have previously stated. He will describe for you that in a criminal case there are two types of evidence that are competent evidence. We have direct evidence and we have circumstantial evidence.

Now, you have a general knowledge, I assume, Mrs. Foote, as to what constitutes direct evidence and circumstantial evidence, I take it?

A Yes, sir.

Q Now, as I say, both of these are competent evidence in a court of law.

Now, generally speaking, direct evidence is that evidence which comes to the jury from the witness stand as to something that a particular witness has himself seen or heard. Do I make myself clear?

A Yes, sir.

Q As to circumstantial evidence, I think in a general way it may be described as evidence that reasonably flows from proven facts. Do I make myself clear?

A Yes.

Q Now, I anticipate that the Court will state this to you:

That the State of Ohio may have a conviction to the indictment based upon circumstantial evidence where you are convinced of the guilt of the defendant beyond a reasonable doubt.

Now, do I make myself clear?

A Yes, sir.

Q Now, should Judge Blythin instruct you that that is the law of the State of Ohio, will you take that law and apply it to the facts in this case? Will you do that?

A Yes, sir.

Q I think it is a rather important factor in your service as a juror, Mrs. Foote, that you folks are what we call the judges of the facts. In other words, Judge Blythin, with his wide experience, is the judge of the law. He presides over these proceedings. He tells us what the law is. You folks are the judges of the facts. You listen to all of the evidence, you read any exhibits, you examine any exhibits that may be submitted by both sides, and from all of this information you come to your conclusions as to what happened July the 4th in the period that precedes and succeeds that,

inasmuch as it may be pertinent to this case. Do I make myself clear?

A Yes, sir.

Q Now, also, as judges of the facts, it becomes very important that you folks are the judges of the credibility of the witnesses.

Now, should Judge Blythin state to you that as the judges of the credibility of the witnesses, you may believe whatever a person says, or you may disbelieve what a person says, you may believe what they say or disbelieve what they say on the basis of things like: Is it reasonable? Is their story reasonable? Did they have an opportunity to accurately see what they are trying to relate here in open court? Do they have an interest in this case?

All of these factors may be involved in the question as to what we call the credibility or the truthfulness of a particular witness. Do I make myself clear?

A Yes, sir.

Q And should Judge Blythin state to you that those are all factors that you may, as a juror, take into consideration in determining the credibility of the witnesses, will you follow his instruction in that regard?

A Yes, sir.

Q Will you do that, please? Now, I am quite sure that Judge Blythin will state this to you: That in a court of law, that

the title, if any, that a particular person, witness may have in a case, is certainly of little consequence; that you should not give greater -- a greater degree of credibility or truthfulness to a person who is a policeman or a doctor or a lawyer or an engineer or a professional man, than you would to a layman merely because of his title. Do you understand what I mean?

50 A Yes.

Q And, on the other hand, you wouldn't give them any less credence, would you, Mrs. Foote, merely because of their title, of course?

A No, sir.

Q Now, you would listen to what they say, you would regard the reasonableness or the lack of reasonableness of their testimony, and you would judge their testimony by the quality of it, is that your position?

A Yes, sir, by what they would --

Q Now, I have this last subject upon which to question you, if I may, Mrs. Foote:

You have stated that you will judge this case strictly and solely on the law and on the facts. Will you do that, please?

A Yes, sir.

Q And that you will not permit any feelings of bias or prejudice or sympathy for or against the State or for or against the

defendant, Sam Sheppard, to enter into your deliberations?

Will you do that?

A I will judge it fairly. Is that what you mean, sir?

Q Yes.

A Yes, sir.

Q Without any bias or sympathy or prejudice one way or the other to either side?

A Yes, sir.

Q Now, I have asked you a substantial number of questions, the Court has asked you a rather substantial number of questions, and I am sure from what you have read about this case, Mrs. Foote, from your own thinking, that only you can tell us whether or not you feel that you could serve in this case fairly and impartially, and I ask you to examine your mind at this time and to tell this Court and all of the gentlemen assembled in this courtroom as to whether or not you feel that there is any possible reason why you could not serve as a juror in this case? Do you know of any reason at all?

A No, sir. There is no reason why I could not judge it fairly.

Q And listen to both sides?

A Listen to both sides.

Q And render a just verdict?

A Yes, sir.

Q And let the chips fall where they may?

A Yes, sir.

Q Thank you very much.

THE COURT: Mr. Garmone.

EXAMINATION OF PROS. JUROR ANN W. FOOTE

By Mr. Garmone:

Q Mrs. Foote, all of the questions that have been asked of you by his Honor, Judge Blythin, and the examination just completed by Mr. Parrino, have a bearing on one subject matter, and that is whether or not you feel you can give this young man, Sam Sheppard, a fair and impartial trial. Do you feel that you can?

A Yes, sir.

Q Now, during the course of your employment with The Ohio Public Service, did you have much contact with lawyers?

A No, sir.

Q Did you have any contact with men who are in the medical profession?

A No, sir.

Q Your job was that of a secretary and stenographer, I believe you said?

A Yes, sir.

Q Are there any members of your family who are directly or indirectly associated with any groups of lawyers or lawyer in the city of Cleveland, County of Cuyahoga?

A No, sir.

Q Are there any members of your immediate family -- when I speak of that I mean your husband's family or the family of your folks or his folks -- that are in any way connected with anyone that is in the practice of medicine?

A No, sir.

Q Do you have any feelings toward a doctor of osteopathy?

A No, sir, none whatsoever.

Q None whatsoever?

A No, sir.

Q Have you ever, during your lifetime, had the occasion to draw a distinction between a doctor of osteopathy and a doctor of medicine?

A No, sir.

Q Or had anyone talked to you about those particular fields of medicine?

A They might have talked about it, sir, but I didn't know enough about it to pay much attention to it.

Q Well, then, whatever conversation you did hear wouldn't cause you to carry any ill-feeling or ill-will toward a person who is a doctor of osteopathy?

A No, sir.

Q Is that correct?

A That's correct.

Q Now, you are the mother of five children?

A Yes, sir.

Q You are mighty young. Congratulations.

A Thank you.

THE COURT: I wondered if this
wasn't the daughter, Mr. Garmone.

MR. GARMONE: That is the reason I
have stayed away from asking Mrs. Foote her age
because of her youthful appearance and having five
children.

Q Now, you did say something, Mrs. Foote, about the fact that
you had read a good number of newspaper articles regarding
this matter. Of course, that was only natural. The papers
have been quite filled with publicity regarding this case.

Now, in any of those articles, although you did state
you expressed no opinion, did anyone ever express an opinion
to you?

A Yes, sir.

Q Now, would it be necessary for the defense to submit any
evidence to overcome that opinion that may have been
expressed to you by some other person?

A Would you please repeat that, sir?

Q You say that you have expressed -- discussed this matter
with other people, and some of those other people have
expressed an opinion to you. I will not ask you what their
opinion was, but do you feel, as a result of the opinion
that was expressed to you by some of your friends or people

that you have talked with about this case, it will be necessary for Sam Sheppard to submit any evidence to wipe away that opinion that was expressed to you or do away with it?

A No, sir.

Q You wouldn't, like we sometimes do, bury back in our subconscious mind some facts and thoughts, and after hearing the facts in this courtroom, permit this opinion or this statement by person or persons that you have talked to, to creep into the issues in this case, is that correct?

A If --

Q You wouldn't permit those opinions, that we sometimes carry in our minds, to creep into facts that you hear in this courtroom?

A No, sir.

Q You feel that if you are chosen as a juror in this case, that you could, with an open mind, digest all the facts, give them their proper weight and their proper consideration, and be fair and impartial to both sides?

A Yes, sir.

Q You can start Dr. Sam Sheppard off in the same line that the State of Ohio starts off from, is that right, in the trial of this case?

A Yes, sir.

Q Now, during that period that you were -- I will withdraw that.

Do you have delivered to your home some of the daily newspapers?

A The Plain Dealer and the Press.

Q And the Sunday Plain Dealer also?

A The Sunday Plain Dealer.

Q And I take it that you read with -- probably with not too much observations the articles that appear therein, but you do read some of the articles?

A Yes, sir.

Q And that you did read some of the articles that appeared in both the Plain Dealer and the Press that had to do with Sam Sheppard's background?

A Yes, sir. I read some of those.

Q And some of the statements that were made about Dr. Sam Sheppard prior to the time that he was indicted by the Grand Jury of Cuyahoga County?

A Yes, sir.

Q You saw his picture in the paper?

A Yes, sir.

Q You probably saw pictures of some of the members of his family in the papers that you get at your home, is that right?

A Yes, sir.

Q Now, is there anything about those pictures or the stories in connection with the pictures that were printed about Dr.

Sam Sheppard or any members of his family that would create any preconceived idea in your mind about how this case should be decided?

A No, sir.

Q Did you at any time during the viewing of those pictures and reading of the articles in connection with the picture -- did that cause you to create a feeling of ill-will or bias or prejudice against Sam Sheppard or any members of his family?

A No, sir. Less so, sir, after I got through reading them.

Q Thank you. In the course of those articles, there was made mention of the Bay Village Hospital, and some of the articles described the operation of this hospital. Did you read some of those articles?

A No, sir, I don't believe I --

Q So you wouldn't have any idea about the hospital operation?

A No, sir.

Q Or any thought on that subject matter?

A (Witness nods negatively.)

Q Now, Mrs. Foote, you will be patient with me. It is coming toward the close of the day, and we sometimes get a little mentally tired, and I don't think as fast. I probably don't think fast anyhow, so it is going to take me a little time.

A I have children, sir. I have to be patient, too.

Q Thank you. Now, this trial may take a considerable length of time. It may be five, six, seven or eight weeks, we don't know, and considering that you do have five children at home -- and I know what children need, because I see it around my home, the mother is the managing director in my home with children -- do you think that you can give that much time without any interference between the activity that will transpire in the trial of this case and the concern that you would most naturally have about the operation of your home and the care of your children?

A I have given that quite a bit of thought, sir, and my worst day was Monday, and since then I found that everything will be fine at home. My husband is close enough if they need him at any time, but I am over the worst part. The week before was the worst part, as far as my worry was concerned.

Q All right. Then you can give this the time necessary in the trial of this case?

A Yes, sir, because of their ages, sir, I could.

Q All right. Now, getting back to the newspaper articles, Mrs. Foote, there appeared in many of the newspaper editions between the 5th of July and up until and including the 17th of October, 1954, a great many pictures. One of the pictures was the picture of a young lady known as Susan Hayes. Did you see her picture during the course of any newspapers that you had read from the time the story broke

until the time that you were summoned for jury duty?

A Yes, sir.

Q And in connection with those pictures there were articles carried that related to the background of this young man, and in conjunction thereto some quotations that were made by the young lady, Susan Hayes. Do you recall those?

A I might have read them, sir, but I can't remember what they were.

Q Well, to refresh your memory, do you recall having read, in connection with one of the pictures that were printed in an article carried by the Cleveland Press, that Susan Hayes had revealed to a Press reporter, who, in turn, made public in the city of Cleveland that she had been intimate with Sam Sheppard?

A Yes, sir.

Q Now, that fact, standing alone, in connection with the charge that his Honor, Judge Blythin, will give you, that it is necessary to prove each and every essential element that constitutes murder in the first degree -- should it develop that that testimony is submitted to you, and it has no connection with the elements that constitute murder in the first degree, and the Court instructs you that the testimony shall not be considered, will you follow those instructions?

A Yes, sir.

Q And the fact that you have the knowledge that the young lady,

Susan Hayes, after having made this statement to the reporters in and about the city of Cleveland, and they in turn had published her statements about her relationship with Dr. Sam Sheppard, would that create any feeling of ill-will or any prejudice or any bias regarding the trial of this matter?

A No, sir.

Q Now, Mr. Parrino had said that a lawsuit of this type is divided into two -- I think he used the expression two separate halves. Seeing that the prosecution delved into that subject matter, I would like to touch on it a bit.

In the trial of a criminal case -- I will make an effort to give a continuity from the beginning -- whether it be in a matter that has the great importance that this has, or some minor charge, it is necessary to empanel a jury of twelve, and that before a jury of twelve can arrive at a verdict, it is incumbent upon the State of Ohio, that is the side that is represented by the gentlemen, Mr. Mahon, Mr. Danaceau, Mr. Parrino, to convince you by proof beyond a reasonable doubt, and the Court will so instruct you, before you can arrive at a verdict of guilty. Would you follow those instructions?

A Yes, sir.

Q In conjunction with that, Mrs. Foote, as a juror, you, as an individual, have a right to take the position, and it is

the law in our State -- and if I am not correct his Honor, Judge Blythin, will in all probability stop me -- that you, as an individual juror, have a right to decide in your mind if the State has convinced you by evidence beyond a reasonable doubt, and that goes for you as an individual juror or any other individual juror that may be accepted in this case.

Now, should the evidence fail, as far as you, as an individual, to convince you by evidence beyond a reasonable doubt of Sam's guilt, but your thought and your conscience and your expression being in the minority, would you, as a juror, feel, because you were in the minority, that you would have to set aside your thought as an individual and join with the majority in returning a verdict?

A Absolutely not, sir.

Q When we talk about burden of proof and evidence beyond a reasonable doubt, we again come back to this side of the table that is represented by the State of Ohio. That burden never shifts. It remains throughout this case with the State of Ohio. The burden is with them to convince you of this man's guilt beyond a reasonable doubt.

Now, in connection with that, as Dr. Sam Sheppard sits here in the courtroom, he is robed with the presumption of innocence, and he carries with him that presumption throughout the entire trial, and the Court will so instruct

you that that robe can never be taken away from him until such time that you have been convinced beyond a reasonable doubt of his guilt, and if the Court tells you that that is the law, will you follow that principle of law?

A Yes, sir.

Q Now, Mr. Parrino did go into the subject of facts very thoroughly with you, that is, facts that you hear in this courtroom.

I know, and everybody else knows, that there will be a lot of people who are curious about the individuals who are being examined as jurors in this matter. There will be a lot of people in our community that are curious about what is going on down at the Courthouse, and they will try to make an effort -- it is only human nature, maybe I would do it if I wasn't a lawyer, I don't know, maybe my wife does it, I don't know, I'm not at home very much -- will make an effort to talk to you or make some statements to you, and those efforts you can't avoid, we appreciate that, but you will not permit any of those activities or actions to creep into those facts that you hear in this courtroom that will be given to you from that witness chair and transferred over into the jury box, will you?

A No, sir.

Q Now, we as lawyers have a right to make an opening statement, and I only touch this subject because it was made mention

about a trial being in two separate halves. Well, there are more than two halves to a trial.

After the jury is empaneled and sworn we, as lawyers, have a right to make an opening statement to you, and in that statement we give you a general idea of what our side of the issue will be, and it is probable -- we tell you that the evidence expects to show this and the evidence expects to show that, and John Mahon has the same privilege.

The Court will tell you that under no circumstances are those statements to be considered evidence in this matter. Will you follow that rule of law?

A Yes, sir.

Q And then at the end we have the right to make our arguments. One side argues and the other side argues, and in those arguments, we review the facts with you, and we give you what we think our interpretation of those facts is, not with an effort of persuading you, but with an effort of trying to see whether your interpretation of those same facts are the same.

The Court will tell you that that is not to be considered evidence. Will you follow that instruction of law?

A Yes, sir.

Q Now, I have asked you a good many questions, Mrs. Foote, and they all, after they are put in the basket or put in the wheel, they all come down to one thing. Well, before I go

into that subject with my final question, I would just like to ask you these two last questions.

Seated at the table are Inspector McArthur -- that is this gentleman here -- and this is Sergeant Lockwood, and I think you have expressed that you knew neither one, that you knew no one connected with the Cleveland Police Department, the Bay Village Police Department, or no one from the Coroner's office, is that correct?

A That's correct, sir.

Q Now, it is anticipated that this gentleman, Inspector McArthur, may take the witness stand. If he doesn't, somebody under his charge may take the witness chair, a police officer or detective, and he will offer, through the State of Ohio, testimony for the consideration of all the jurors. This question was put to you, but I would like to put it to you in this form:

Would you, because of the fact that they are a police officer, give their testimony any greater weight and consideration than the testimony that you would give an ordinary layman?

A A little more weight, sir, but I think it is equal by both sides.

Q Now, maybe I didn't make myself clear. The question I asked is this:

Should Inspector McArthur, as an example, take the

witness stand -- I don't say that he will, but I anticipate that there will be some police officers from the City of Cleveland, and there may be some police officers from the Bay Village Police Department, and they will testify on behalf of the State of Ohio, we anticipate that, and if that does happen do you think, because of the fact that they are police officers, that they would be entitled to any more consideration in their testimony than if I were to be sworn, not as a lawyer in this case, but as a citizen of the community to take the stand and testify -- that they should get more consideration than I, or maybe even you, if you were called as a witness?

A Yes, sir.

Q You do.

MR. GARMONE: Does the Court care to interrogate the witness on that subject?

THE COURT: Mrs. Foote, you stated now in answer to Mr. Garmone that you would give Inspector McArthur or Sergeant Lockwood's testimony, or the testimony of some person operating under them, greater weight than you would the testimony of an ordinary person. I thought you had stated before that you would not do that very thing. Will you explain to us, without my prompting at all?

PROS. JUROR FOOTE: I might not have --

THE COURT: Louder.

PROS. JUROR FOOTE: I might not have understood the question right in the first place, I'm sorry. I would give a policeman more consideration because he would have been more or less the first person on hand. I thought when Mr. Garmone said "layman" I thought he meant more or less lawyers --

THE COURT: Now, you mustn't do that, Mrs. Foote.

PROS. JUROR FOOTE: Well, I meant the people directly connected with the case as laymen.

Now, I might still not understand the question right.

THE COURT: Let me try to make plain to you what the rule is, as I stated it to you before, and I will try to repeat it as closely as I possibly can, not to confuse you at all, but in the hope we can exactly understand what you mean. We are not trying to put words in your mouth nor meaning in your mind.

The Court stated to you that no matter a person's station or position in life, he was equal with every other person, and no more on this witness stand, and it is the duty of a jury to weigh the testimony of any witness on the same basis precisely.

Now, Mr. Garmone asked you if you would give more credence or you would be more ready to believe a police officer or a person of that office than you would an ordinary person who is not connected with such an office --

MR. MAHON: Just because he is a policeman.

MR. GARMONE: Just because he is a policeman. I added that to my question.

THE COURT: That is right.

PROS. JUROR FOOTE: No, sir. The way that Judge Blythin -- I'm sorry -- expressed it was a little more clear than the way you did.

MR. GARMONE: I see. Well, I'm sorry that I confused you.

PROS. JUROR FOOTE: I'm sorry.

MR. GARMONE: Well, now, I will ask you this question, now that we have got over that hurdle --

THE COURT: She is not over that hurdle about the lawyers yet.

MR. GARMONE: Of course, that would have to include your Honor because he is a member of the same profession.

THE COURT: She may be very much right.

By Mr. Garmone:

Q Now, I will ask you this question, Mrs. Foote, and then I am going to conclude:

The office of Dr. Gerber is known as the Coroner's office of Cuyahoga County, and they perform the autopsies in many cases, and they performed the autopsy in this case, and in that office he has a Dr. Adelson, who is a pathologist, and his assistant; he has a Dr. Sunshine, a Dr. Chamberlain, and a young lady known as Mary Cowan. Do you know any of those people?

A No, sir.

Q Now, there will be submitted, and I think this statement will go without denial, testimony of a medical nature on both sides.

Now, I get back to this principal question -- if I am not clear, you tell me -- would the fact that Dr. Gerber and the other doctors that I have mentioned, who are associated with him in the operation of the County Coroner's office, cause you to give them greater weight because they are with the Coroner's office than you would a doctor that would come in and testify on the same subject matter for the defense, or would you treat them equally?

A I would treat them equally.

Q There is no question about that?

A No question.

Q Now, should there be during the course of the trial the testimony in behalf of the State of Ohio by medical doctors and testimony on behalf of the defense by doctors of medicine and doctors of osteopathy, would you treat them all with the same degree of consideration and weight?

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A Yes, sir.

MR. MAHON: Now, object to it,
object to the weight that she might give them.

MR. GARMONE: Well, consideration and
credence.

THE COURT: "Consideration." Is
that satisfactory?

MR. MAHON: Yes.

THE COURT: Yes. That is all right.

She may answer.

A Yes, sir.

Q Now, Mrs. Foote, I have asked you questions, the Judge has asked you questions, and Mr. Parrino examined, and I don't know whether I was able to reveal anything that may be in your mind about why you couldn't be fair and impartial, so I ask you now to search your conscience and see whether or not there is anything that you care to reveal -- anything to the Court -- that would stop you from sitting as a fair and impartial juror in this case? Do you know of anything?

A There is no reason, sir. I have searched my conscience and

I know I could treat it fairly.

Q

The importance of this case is great, the responsibility is much, the responsibility the State of Ohio has, the great responsibility that I, Mr. Corrigan, Mr. Petersilge and Mr. Corrigan, Jr., have, but a great responsibility will come to you if you are accepted as a juror. Probably not again in your lifetime will you be called upon to sit in judgment on a fellow-citizen as to his innocence or guilt, and in this case, greater than that, you shall take with you in your deliberation room a power and authority to rub out a human life, and you feel that after all this interrogation that you can accept that obligation and treat the State of Ohio fair and treat the young man on the other side of the table equally as fair?

A

Yes, sir.

MR. GARMONE: Thank you.

THE COURT: Take that seat No. 7,

Mrs. Foote, please.

(Prospective Juror Foote does as requested.)

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