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Thursday Morning, November 4, 1954.
9:30 o'clock a.m.

MR. CORRIGAN: If the Court please,
I desire to renew my motion for a continuance of
this case, for a change of venue, for the withdrawal
of a juror and for a mistrial.

(To the reporter): Would you read what I
dictated yesterday?

(Thereupon the following was read by the
reporter, being taken at 11:00 o'clock a.m.,
Wednesday, November 3, 1954:

"After the jury was discharged at the end
of the morning session, at the request of the
newspapers, the jury was brought back into the
room and sat in the room for a matter of -- how
long, 15 minutes, 10 minutes?

"Mr. Clifford: 10 minutes, yes.

"Mr. Corrigan: (Continuing) And were
subjected to photography, photographing and
television cameras by at least 10 cameramen who
mounted themselves on chairs, the Judge's bench
and various parts of the room. This was all done
out of the presence of the defendant, Sam Sheppard.")

MR. CORRIGAN: I also want to introduce,
as part of my motion, Defendant's Exhibits 63, 64 and

65.

(Defendant's Exhibits 63, 64
and 65 were marked for
identification.)

MR. CORRIGAN: When the jury visited
the premises yesterday under the order of the Court,
there was at least 40 reporters there, a great
number of cameramen, and the Cleveland Press hired
a helicopter which continued to swing over the house
and take pictures with a great deal of noise and
racket.

When the jury went through the house, it was
accompanied by a reporter of the Cleveland Press,
Mr. Brady.

So I renew all my motions at this time.

THE COURT: They all be overruled,
and exceptions noted.

(Defendant's Exhibits 63, 64
and 65 rejected by the
Court.)

THE COURT: Let the record show that
insofar as the photographing of the jury panel is
concerned, that that was done entirely outside of
the court proceedings and with the consent and
acquiescence and cooperation of the jurors themselves,
and is what is done and permitted in this court
generally in all cases where that is requested.

MR. DANACEAU: If the Court please, it was our understanding that it was with the Court's approval and the parties' approval that one newspaper man --

THE COURT: The Court will state that; that at the outset of this trial the Court ordered that no pictures be taken of the jurors while the empaneling was in progress, and absolutely refused to permit any pictures to be taken of the jurors in their seats during the empaneling and during the proceedings that resulted from the empaneling, and that the Court had stated to the photographers and to the newspaper representatives that if and when a jury was finally seated, that they would be permitted, outside of the court sessions, to have a picture of the jury, if all jurors were agreeable to that procedure.

MR. DANACEAU: It is also our understanding that this one reporter who was permitted to enter the house at the same time that the jurors were in there was by arrangement amongst all the newspapers and with the approval of the Court.

THE COURT: No, sir, that is not quite correct. The situation as to the one newspaper man is this: That when the Court was approached

several days ago about the matter, the Court said that he had no authority whatever to permit anyone to go on the Sheppard property, that he was not in charge of the property, it was not his property to control, excepting to the extent of having the jury visit and those necessary with the jury to visit the property.

The newspapermen then informed the Court that they would like to ask the County prosecuting attorney representatives, counsel for the defense and some members of the Sheppard family and secure their consent; and I think, if the reporter who spoke to the Court is present here, that he will now verify what I have said, that I then said that I had no right whatever to permit anybody on the property, but that if it was agreeable to the State, to counsel for the defense and to the Sheppard family, of course, I had no objection whatever and had really no jurisdiction over the matter.

MR. DANACEAU: I want the record to further state that this reporter who was in the place came to us and told us that he had the approval of counsel for the defense as well as our approval.

MR. CORRIGAN: He had no approval of mine.

MR. PARRINO: May I say, if the Court please, and may the record also show that at the property, at the premises yesterday, the Sheppard residence, while the jury was there at the scene, that I personally spoke to Mr. Garmone on that subject and stated to him at that time that, "The jury is here present. We are about to view the scene. A Tom Brady, of the Cleveland Press, I am given to understand, after having spoken to you, wishes to view the premises."

And I asked Mr. Garmone directly at the scene, "Do you, sir, have any objection whatever to the newspaper reporter viewing the premises along with the jury?"

And Mr. Garmone stated to me specifically at that time that he and the defense did not have any objections whatsoever to Mr. Brady accompanying the jury.

And may I further say that Mr. Garmone is, of course, here present in the courtroom at this time, and if these statements that I represent to the Court here and now are not true, I should like for Mr. Garmone to so state for the record.

MR. GARMONE: With one exception, that I added the statement that Mr. Brady had received

permission from the members of the Sheppard family.

MR. PARRINO: I beg your pardon.

MR. GARMONE: With one exception your statement is correct, that Mr. Brady had received, had asked permission and received permission from the Sheppard family.

MR. PARRINO: Then I take it that Mr. Brady, in addition to what I have stated --

MR. GARMONE: I say, I am just making that statement. I answered your question.

MR. PARRINO: In addition to what I have stated, if I understand you, sir, Mr. Brady, according to his representations to you, had also received permission to view the premises from the Sheppard family?

MR. GARMONE: That's right. We don't want to withhold anything.

THE COURT: Let's have the jury.

MR. CORRIGAN: I would like to make one further request, your Honor, that one -- I suppose there will be a separation of witnesses when we start the trial of the case.

THE COURT: I don't know. There is no request yet. It will come.

MR. CORRIGAN: Yes. Would you just wait

a moment, Eddie?

I would like to request that one member of the Sheppard family, who will be a witness, be allowed to remain in the courtroom so that I may be able to consult with him from time to time about things that may arise in the testimony. The Court realizes that we are very limited in the matter of our investigation, and that the prosecutor has the police department, and we think that we should have one person with whom we could consult from time to time.

THE COURT: Let the decision on that matter rest until the request is made for a separation, and then will you remind me of it then?

MR. CORRIGAN: All right.

(Jury returns to Court Room)

THE COURT: Ladies and gentlemen

of the jury, the next step in this proceeding is for counsel, one of counsel for the State, followed by one of counsel for the defendant, to present to you what are usually referred to as opening statements.

What counsel will state to you in these opening statements is not evidence and is not to be considered by you as evidence at any time or for any purpose.

These statements have a limited and yet very

important purpose. They are for the purpose of giving you what might be termed a preview of this case to give you an idea, in general terms, what it is all about from their viewpoint. They will indicate to you not what the evidence will be but what they now expect and believe the evidence will be, and that is why the statements that they will make to you are not evidence at all.

These statements are made in the hope that this preview and this idea of what they expect the evidence will be in this case will assist you in understanding the testimony as it unfolds during the coming days from the mouths of the witnesses from this witness stand.

The State.

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