

Monday Afternoon Session, October 18, 1954.
1:15 o'clock p.m.

THE COURT: The clerk will proceed to call the roll of the jurors who have been summoned here and who are here now, and will you please answer "Present" as your names are called?

THE CLERK: Do you wish me to read the address, your Honor?

THE COURT: No, I wouldn't think so. You are not interested now, are you, in the address?

MR. CORRIGAN: No, your Honor.

(Thereupon the Clerk called the following names of the prospective jurors, to which each answered "Present," except as shown:

Theodore J. Mayer; John R. Kostur; Howard L. Barrish.)

THE COURT: I wish to notify counsel that I have here a communication from Arline A. Christensen, in which she states that she is expecting a newcomer in the Christensen family sometime between today and next Monday.

(Elizabeth A. Borke; Hugh D. Brickman.)

THE COURT: I have here a communication from Vogt & Conant, a contracting firm, who are the

employers of Charles E. Feighan. He has been engaged on a job for the Curtis-Wright plant at Woodridge, New Jersey, for some time. He has not received a summons, and he is in New Jersey, and will not return until probably sometime toward the end of the month of November.

(Edmond L. Verlinger; Vernice Valichnac; Edward Goldman; Harlan H. Wilkens; Thomas J. Sollie; Elsie F. Jack; Edna I. Fritz; Michael Marmash; Louise K. Feuchter; Leon Eisner; all answered "Present.")

THE COURT: Carol E. Nelsen. I have the summons and a communication from Dr. H. R. Hathaway, who has offices at 15701 Detroit Avenue, and he states that, "This lady is not capable of serving as a juror and has been under his care since 1945, and as recently as September 23, 1954. In my opinion, she should be excused from jury duty."

(Melvin C. Holliday; Bertha Evaline Loudenstein; Ann W. Foote; Beatrice P. Orenstein; Harold G. Rowland; Angeline Domenick; Ann D. Williams; Margaret E. Adams; Grace L. Prinz; Leslie T. Hunnicutt; Bette Marie Pokersnik Parker; Gerald L. Liederbach; Mary E. Reid; Ray J. Bania;

Kathryn M. Bower; James J. Svejda; Elva I. McGill;
Grace M. Taylor; all answered "Present.")

THE CLERK: John W. Smith was not
found by the Sheriff, your Honor.

(Luella Williams; Maria S. White; Minnie
F. McGregor; Victor D. Filimon; Genevieve A. Pelsey;
Frank G. Morovec; Florence A. Deutsch; Nora K.
O'Connor; Frank Figlar; Edward Patrick Smith;
Ellis Hughes; all answered "Present.")

THE COURT: Emma J. Braun. I have
here a letter from Gerald B. Hurd, a physician of
10515 Carnegie Avenue. "This is to certify that
Mrs. Emma J. Braun is presently confined at St.
Luke's Hospital for obstetric care. Therefore,
it will not be possible for her to report for jury
on October 18, 1954, as summoned."

THE CLERK: Dina A. Competto not
found by the Sheriff.

(Mabel L. Henry; John J. Pope; Dorothy E.
Lee; Irene J. Kiraly; James C. Bird; Gilbert L.
Rossiter; Olga S. Rybak; Edith E. David; Irene
M. Imhof; Harry Hiltaychuck; Fred J. Brown;
William C. Lam; all answered "Present.")

THE CLERK: Virginia Lee Sinclair,
that is one on our list, I think, your Honor.

THE COURT: Virginia Lee Sinclair has left the city of Cleveland permanently, and is now a resident, our information is, of Mexico City, and her address in Mexico City is given here. She has never received this summons, we are informed, and was not in Cleveland and is not here as a resident.

(Harold F. Plagens; Henry C. Romer; Wilbert S. Junglas; all answered "Present.")

THE CLERK: Annabel H. Campbell not found by the Sheriff.

(Elmer S. Barna; James Roger Manning; Frank J. Kollarits; Joseph A. Kaczmarek; John C. Smith; Elizabeth F. Karnosh; Stanley J. Gorczyca; all answered "Present.")

THE COURT: There is one further. Ann D. Williams. Is Ann D. Williams here?

The Court's information is that Ann D. Williams is now married, and that her present name is Smith, and that she is now a resident of East Liverpool, Ohio, but she has been good enough to come here today in response to the summons, nevertheless, having been notified of it.

MR. CORRIGAN: What number is that, Judge?

THE CLERK: No. 26.

THE COURT: Mrs. Smith, would you be good enough to come here, please? Let's see what your situation is. Do I understand that you have been married within recent times?

PROS. JUROR SMITH: Yes, your Honor, on the 27th of September.

THE COURT: On the 27th day of September and you married someone that resides in East Liverpool?

PROS. JUROR SMITH: Yes, sir, your Honor.

THE COURT: And have you moved to East Liverpool with the intention of making it your permanent home?

PROS. JUROR SMITH: Yes, your Honor.

THE COURT: Is there any question about excusing Mrs. Smith?

MR. MAHON: None on the part of the State, your Honor.

MR. CORRIGAN: We have none, your Honor.

THE COURT: All right. Thank you very much for coming in.

Will all the members of the panel be kind enough to rise and raise your right hands?

Do you and each of you solemnly swear that the

answers you shall give to the inquiries that will now be put to you, whether put by counsel or by the Court, shall be the truth, the whole truth and nothing but the truth as you shall answer to God?

You all swear to that? Thank you.

Ladies and gentlemen of the panel, you have been called here as prospective jurors for the trial of a case of the State of Ohio against Sam H. Sheppard, who is here charged under an indictment with murder in the first degree. You are to understand at the outset, and you will be informed later, that the fact that Sam H. Sheppard is here charged in an indictment, as I already stated to you, raises no presumption whatever of guilt, but that he is presumed to be innocent unless and until the point arrives, if it ever does, where he is found by a jury to be guilty of the crime beyond a reasonable doubt, that finding to come not from anyone's notions or outside information, but must come, if it comes at all, on the basis of testimony heard from this witness stand, and on the basis of its consideration under conditions -- under principles of law which the Court will state to the trial jury.

Every person charged with a criminal offense is entitled to a fair and impartial trial at the hands

of that kind of a jury, and a fair and an impartial juror is a juror who will sit here patiently without any passion, prejudice or feeling, and who will carefully listen to all of the evidence adduced at the trial and to the instructions of the Court as to the law, and beguiled solely by them in his or her decision in the case. The State of Ohio is entitled to empanel that kind of a jury. Certainly the defendant, Sam H. Sheppard, is entitled to have empaneled that kind of a jury.

All cases brought in this division of this court are brought in the name of the State of Ohio, so that the State of Ohio is always the plaintiff here, and in this case, Sam H. Sheppard becomes the defendant.

The State of Ohio is represented in these cases in this court by the office of the County prosecuting attorney. The County prosecuting attorney is Mr. Frank T. Cullitan. Representing his office here are three gentlemen. The first gentleman to my left at the trial table is Mr. John J. Mahon of that office. The second gentleman -- you might stand, Mr. Mahon.

The second gentleman is Mr. Saul Danaceau of that office, and the third gentleman is Mr. Thomas

Parrino of that office.

Back of Mr. Parrino is Inspector James E. McArthur of the police department.

Thank you, gentlemen.

The defendant is represented in this court by the gentlemen to my right standing here, Mr. William J. Corrigan. Next, the gentleman sitting here, Mr. Fred Garmone, and next, Mr. Petersilge, and over there on the corner, Mr. Corrigan, Jr.

And over here is --

MR. MAHON: This is Sergeant Lockwood.

THE COURT: Next to Mr. Petersilge here is Sam H. Sheppard, the defendant in this action.

You will be asked some questions later, and I want you to just know these gentlemen now --

MR. GARMONE: Pardon my interruption. Will the Court introduce the Sergeant sitting next to Mr. McArthur, please?

MR. MAHON: Sergeant Lockwood.

THE COURT: Yes. Sergeant Lockwood of the Cleveland Police Department.

You will be asked some questions later, and they will refer to these persons.

I would like to know if any of you have served on a Grand Jury within recent dates or any time?

(No response.)

THE COURT: Have any of you served as a petit juror in the trial of any criminal cases within recent times, or at any time?

How long ago, sir?

PROS. JUROR ROSSITER: I should say five years, six, possibly.

THE COURT: Was it in this court?

PROS. JUROR ROSSITER: Yes.

THE COURT: I mean in the Common Pleas Court of Cuyahoga County?

PROS. JUROR ROSSITER: Yes, your Honor.

THE COURT: Will you be kind enough to keep that in mind and mention it when you are brought to the chair here, if you will, please, so counsel can make inquiry?

MR. GARMONE: May we have his name, please, at this time?

THE COURT: Yes. Will you give us your name?

PROS. JUROR ROSSITER: Gilbert Rossiter.

THE COURT: Do you have your subpoena?

PROS. JUROR ROSSITER: No, I don't. I'm sorry, Judge Blythin.

THE COURT: I thought if you had the

subpoena we could tell quickly by the number.

PROS. JUROR ROSSITER: I am No. 57.

MR. GARMONE: We have it. 57.

THE COURT: Now, ladies and gentlemen, I do not know who of you will be selected finally as jurors in this case, if any of you, but I think that now that you are about to leave this courtroom, I ought to caution you as if you had been selected as jurors, because we must approach this case with all seriousness, observe all the rules, be thoroughly fair as decent American citizens, and my speech now will be directed as if you had been selected, but I wish you would observe the caution just as if you had been so selected.

You are not to discuss this case or any feature of it with anyone during the pendency of the trial. You are not permitted to have anyone speak to you about it. You are not to remain anywhere where other people are speaking of it among themselves, whether they have any real interest in the case or not. You are not to speak of it among yourselves, whether in the jury room of this Courthouse or within this Courthouse or elsewhere.

It is the duty of every juror to do the thing which I have already suggested: To be patient and to

wait until he or she has heard every word of evidence in the case and the instructions of the Court as to the law, and it is his and her duty to reserve all judgment and to keep his or her own counsel, form no opinion whatever until all the evidence has been received and the instructions have been given to the jury by the Court.

Will you be good enough, even though you have not now been selected as jurors, and may never be -- will you please observe the caution while we are in the process of empaneling the jury?

Who are the first three names, please?

THE CLERK: Theodore J. Mayer,
John R. Kostur, Howard L. Barrish.

THE COURT: Will those three people be kind enough to remain here for the moment, and will all the others of you be good enough to retire to your jury room and wait until you are again called?

MR. CORRIGAN: If the Court please, --

THE COURT: Just one moment, please.

MR. CORRIGAN: -- I desire to insert certain matters into the record, as I stated to you before lunch, and I am just wondering if you would want the jurors in here when I make those assertions.

THE COURT: How long will it take?

MR. CORRIGAN: It will not take me
very long.

THE COURT: We don't want to do it
now, of course, but I am concerned about those three
people.

MR. MAHON: Let them all go out.

THE COURT: All right, ladies and
gentlemen, will you please retire to your jury room
with the exception of those three people who are
called this moment? Will the three of you be kind
enough to go through that office and ask the bailiff
to be kind enough to put you in my office for a
few minutes until we call you?

Thank you very much.

(Thereupon the following proceedings were
had in the absence of the prospective jurors):

THE COURT: In order to keep the
record clear, gentlemen, is there any question about
excusing these people that I mentioned as we went
along?

MR. CORRIGAN: The defense has no --
raises no question about the action of the Court.

MR. MAHON: The State raises no question.

THE COURT: Now, let's list them now.

The first is Ann D. Williams; second, Virginia Lee Sinclair; the third is Emma J. Braun; fourth is Carol E. Nelsen; the next is Charles Feighan; and the last is Arline A. Christensen.

The record will show that for reasons stated, they are excused.

Now, Mr. Corrigan, proceed.

MR. CORRIGAN: I suppose we ought to open the doors and let the people in.

THE COURT: Oh, yes, perhaps we had, sure.

MR. CORRIGAN: If the Court please, I would like the record to show that inside the bar, as I stated before, is a table, and that that table extends over the width of the courtroom; that this courtroom is 26 by 48 feet; that the table runs east and west, and that the west end of the table is within six inches of the seat of the thirteenth juror and approximately two feet from the end of the jury box; that there has been assigned to that table representatives of the following news agencies:

The Akron Beacon Journal; two seats for the International News Service; three seats for the Cleveland Press; three seats for the Cleveland News;

three seats for the Cleveland Plain Dealer; two seats for the Associated Press; and a seat for the New York Journal American.

That outside the rail or back of the rail in this courtroom, there are four rows of benches for spectators. That the first row of the spectators' benches have been assigned by the Court as follows, and are occupied by the following news services:

Two seats to WGAR; two seats to WERE; one seat to WCUE; one to WTAM; two seats to WNBK; one seat to WDOK; one seat to WEWS; one seat to WHK; one to WXEL, all of these assignments being to representatives of broadcasting stations, radio stations or television stations, and one seat to the NEA, Newspaper Enterprise Association.

That row two of the seats in the courtroom is assigned as follows:

The Newark, New Jersey, News; the New York Post; the Pittsburgh Post Enterprise; two seats to the Cleveland News; two seats to the Cleveland Plain Dealer; two seats to the Cleveland Press, the Toledo Blade, the Pittsburgh Post-Gazette, the Lorain Journal, the Chicago Sun-Times, and the Scripps-Howard News Association.

That the third row is assigned to WAKR; to the International News Service; the New York Journal American; Radio Station WSRS, Cleveland Heights; Detroit News; the New York News; two seats are assigned to Life Magazine; one to NBC and the St. Louis Post Dispatch.

That the last -- the only row of seats in the courtroom that is not assigned is the last row of the courtroom which accommodates about 14 people.

We also wish to note in the record that there are in this courtroom three loud speakers and a microphone which stands in front of the witness chair.

We incorporate all these things in the record before your Honor in the matter of our motion, both our motions, and we move at this time that the -- I will change that.

I state on information, on which I may be corrected if it is not so, that the seats that I have referred to were assigned by the Court, and that certain designations were put on the table and on the seats designating the locations for these different organizations and newspapers that I have mentioned, and that that assignment was made by the Court on Wednesday of last week.

Am I correct in that, your Honor?

THE COURT: I beg pardon. I didn't get the last seat.

MR. CORRIGAN: I say, I understand that these assignments whereby the courtroom is occupied as I have outlined was made by the Court on Wednesday of last week. Is that correct?

THE COURT: Oh, no. That is not true. The Court will state as to what happened, also when you get through.

MR. CORRIGAN: I noticed before we came to the courtroom that the three rows of seats back of the rail -- there was posted on them a sign designating to whom they belonged, and that the signs designated these various radio stations and these various newspapers that I have mentioned, and that was done in advance of the trial. Is that correct?

THE COURT: Yes, that's correct. The Court will state now for the record, also, that these arrangements that counsel has now referred to have all been had after a great deal of consideration, applications for space, but finally with the approval of the Court. There is no question about that at all. The arrangements as to the table for members of the

local press in particular, and the national news services, were made sometime in the middle -- perhaps Wednesday of last week, as counsel has indicated.

Also, the next row, for the simple reason that those were set aside for local parties and the national news services, the second row in particular for the radio station representatives, and they selected the actual spaces within the -- I mean the actual space for each individual within the total space, and they placed their tags on them so that each person will know where he sits.

The others back of that were designated by the Court in the order of applications received for them.

The back seat was kept for the members of the Sheppard family and the members of the late Mrs. Sheppard's family, and any other members of the public who will be admitted.

The Court did that for the simple reason that the space is so very limited in the courtroom, and there is a request for space for far more people than can be accommodated at all.

The Court will not during the progress of this trial permit any standees in the courtroom, and we are

going to conduct this trial with that kind of decorum which befits a trial of any criminal case.

As to the public address system within the courtroom, that was installed at the request of the Court because it is difficult to hear, particularly witnesses, in the back of the courtroom, and it is very difficult at times for the jurors to hear witnesses. We are in a location where there is industry, light industry, it is true, a good deal of traffic, truck and other, and it is a place very difficult in which to hear at times.

Let it be noted that this loud speaker -- that these loud speakers are for the sole accommodation of the jurors, the members of the press and public in the rear of the courtroom, and especially for counsel at the trial table.

There is no communication from inside the courtroom to any outside source, and all of these arrangements have been approved by the Court.

Does that cover the --

MR. CORRIGAN: Yes. If the Court please, I now move that the table be taken from inside the bar and removed from this courtroom; that the signs that have been placed on the three rows of spectators' benches be removed, and, as I understand, your Honor

has issued cards, admission by cards.

THE COURT: That's right.

MR. CORRIGAN: And that the Court
rescind the order whereby the only admission to
this courtroom is by card issued by him. I so move.

THE COURT: Overruled.

MR. CORRIGAN: Exception.

THE COURT: Now may we have the first
juror?

- - -