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State Demands Death Penalty For Sheppard

By AL OSTROW

Citizen Special Writer

CLEVELAND, Dec. 15.—Dr.

Samuel H. Sheppard nervously fingered a crucifix today as he heard the state of Ohio open its demand that he be executed for the July 4 murder of his pregnant wife, Marilyn.

The booming voice of assistant prosecutor Thomas J. Parrino began the state's final arguments, branding Dr. Sam's version of his wife's death "fantastic" and unbelievable.

PARRINO ALSO BLASTED the testimony of Dr. Sam's older brother, Dr. Stephen Sheppard, as false and unworthy of belief.

"We are dealing here with a foul, brutal and vicious murder," Parrino thundered, "and must call a spade a spade."

The crucial summations began after Dr. Sam lost his final bid to take the issue of his life or death away from the tensely listening seven-man, five-woman jury.

ASSOCIATE DEFENSE counsel Fred W. Garmone had announced:

Final Argument Blasts Sam's Testimony; Judge Plans To Charge Jury Friday

"The defendant, Samuel H. Sheppard, rests his case."

One rebuttal witness later, the chief prosecutor, John J. Mahon, said: "The state rests."

With the jury excused, associate defense counsel Arthur E. Petersilge asked Judge Edward Blythin to order a directed verdict of acquittal because the state had failed to prove its case.

Blythin rejected the motion.

HE ALSO REFUSED to strike out the indictment's charge of first-degree murder. Acceptance of this motion would have saved Dr. Sam from the possibility of death in the electric chair.

Blythin assigned five hours to each side for final arguments, and said he hoped to deliver his instructions to the jury Friday morning and send them out to deliberate at about 10:15 a. m.

SIX RIVAL ATTORNEYS planned to participate in the 10 hours of closing debate. Parrino, leading off for the state, was to

be followed by assistant prosecutor Saul S. Danaceau.

The defense case will be made by Petersilge and Garmone, with chief defense counsel William J. Corrigan presenting the final plea.

The last attorney's voice heard by the jurors will be Mahon's—with a version of the closing statement that has made him the prosecutor who has sent more men to the electric chair than any other Ohioan:

"Be fair to the defendant. Show him the same mercy he showed his victim."

BLYTHIN INTRODUCED THE jurors to the final arguments by explaining that the summations were intended to review the testimony and the "fair inferences" that may be drawn from the evidence.

The state, he said, has the burden of proof, and therefore speaks first and has the final word.

Parrino told the panel that the

jury system is a vital bulwark of democracy, and service on a jury "is second only to service in the Armed Forces in time of war."

"**BEING THE JUDGE OF THE** facts," he said, "You can believe or disbelieve any witness . . . You can consider whether what he said was reasonable, unreasonable, probable or improbable, fantastic or logical."

And all the tests of common sense, he said, make the witness stand stories of Dr. Sam and Dr. Steve ridiculous.

Parrino whipped off his own jacket, folded it neatly, and placed it on the floor to show the position in which Dr. Steve said Sam's jacket was on the murder morning.

WAS STEVE LYING, he asked, in an effort to help his younger brother?

The prosecution contends that the jacket was neatly folded on the couch from which Dr. Sam

said he leaped to run upstairs in response to Marilyn's cry for help. Dr. Sam had been wearing the jacket and a missing T-shirt when he dozed off on the couch on the murder eve.

Parrino paced back and forth before the jury box, asking each male juror individually:

"How much strength can a man muster if he thinks his loved one is under violent attack . . . where it's a matter of kill or be killed . . . when a loved one is in peril?"

HE SCOFFED AT DR. SAM'S claim that he, an athletic 30-year-old, was quickly knocked unconscious by the "form" he claims killed his wife.

There was no "phantom form," Parrino thundered — Marilyn Sheppard was killed by her husband.

Parrino asked the jurors to ponder what both Sam and Steve were doing between 4 a. m., the estimated time of Marilyn's murder, and 5:30 a. m., when her death was reported.

Why, he asked, did Dr. Steve go straight to the murder bedroom

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after reaching the house of tragedy shortly after 6 a. m. without first talking to anyone — as Steve testified he did?

PARRINO REMINDED THE jurors of the testimony of Bay Village Mayor J. Spencer Houk, first person summoned by Sam on the murder morning, that his other brother, Dr. Richard N. Sheppard, on discovering Marilyn's murder had asked: "Sam, did you do this, or did you have anything to do with it?"

"What would prompt a brother to make a statement like that?" the prosecutor demanded. "A statement, that, in its import, words cannot describe. . . ."

"What was the true relationship between the defendant and his wife that would prompt his own brother to make that almost amounts to a direct accusation?"

PARRINO POINTED to Marilyn's bloodstained wristwatch, which was found on the floor in the downstairs den, and to Sam's watch, discovered in a green bag of jewels in the bushes on the Sheppard property.

He termed it part of a clever cover-up — "someone had a desire to make it look like a burglary."

"Why wasn't Sam struck just one blow with the murder weapon used by the vicious killer he says murdered his wife?" Parrino demanded. "Ask yourselves that—why not a single blow on this witness should identify the killer . . ."

PARRINO'S ARMS ROSE AND fell, simulating the killing, as he shouted: "Where was Sam while 35 blows were being struck on his wife? Where was he? What was he doing? How long does it take to strike 35 blows? Try it in your jury room and see—30 seconds, maybe more . . ."

The prosecutor charged that Dr. Sam's relatives had intentionally rushed him from the murder home to their family-operated Bay View Hospital within half an hour after he reported his wife's death.

Dr. Sam, Parrino said, did not cooperate with the authorities, but hindered the murder investigation by refusing to be questioned except on terms and times of his own choosing.

The action came after an emotional scene in which the boyish-faced defendant buried his face in his fists and wept.

Dr. Sheppard sobbed as his slain wife's aunt read to the jury a letter she had written just four days before she was bludgeoned to death in her bed last July 4.

MARILYN HAD informed the aunt, Mrs. Mary Brown, that she was expecting a baby and had written "You'll have to bone up on my baby book—I'll really need a sitter."

It was the 10th day of the defense's case and the 40th day of the first-degree murder trial in Common Pleas Court.

DR. SHEPPARD, immaculate in a grey suit, had smiled at Mrs. Brown—sister of Marilyn's dead

mother—when she took the stand. Soon he was biting his lips and blinking when she testified he and Marilyn, 31, were "very muc in love—very happy together."

BOTH SIDES RESTED after testimony by the 70th witness. He was Sgt. Jay Hubach, of the police force of suburban Bay Village, where the Sheppard home is located on the Lake Erie shore. He testified that late last July he was in the murder home while investigators were searching it.

He said at that time there was nothing under a wastebasket in the kitchen. But on last Nov. 11 he returned to the house with Dr. Richard N. Sheppard, 38, the defendant's oldest brother, and his wife, Dorothy.

AT THAT TIME, Sgt. Hubach testified, Mrs. Sheppard picked up the wastebasket. He saw her point. He looked, and there was a key. It fitted and worked the lock to the back door.

The key has been a mysterious element in the case. Dr. Sam has testified there was only one key to that door.

He also said the door was left unlocked at night, except when he was out of town or working late at the hospital, and other witnesses have confirmed that testimony.

THE DEFENSE contends a burglar intruder, perhaps a narcotics addict who stole morphine from the doctor's medical bag, entered through that door.

AFTER BOTH SIDES had rested finally, the defense renewed various motions for a mistrial and a directed verdict of acquittal. Judge Blythin overruled them.