Court Refuses to Block Shaw Trial in JFK Plot

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The Supreme Court refused yesterday to block the trial of former New Orleans businessman Clay Shaw on a charge of conspiring to murder President Kennedy.

With Chief Justice Earl Warren abstaining but without dissent, the Court affirmed without hearing arguments a lower court decision that Shaw's lawyers had failed to carry the strong burden of proof necessary when a Federal court is asked to enjoin state criminal prosecutions.

Shaw's attorneys—and many commentators—charged that the criminal case was a mischievous publicity stunt by New Orleans District Attorney Jim Garrison calculated to discredit the Warren Report at the expense of innocent persons.

Defense attorneys also argued that the Warren Report, which called the assassination the lone act of Lee Harvey Oswald, should be made legally binding on any prosecution, a purpose never intended by Warren Commission members.

Garrison's lawyers emphasized that Shaw had been indicted March 22 and had been held after a judicial preliminary hearing, two precautions that made it still harder to prove the prosecution was without any basis.

In past state criminal cases, Federal court intervention has been limited to proven bad faith of the prosecutor under laws that flagrantly violated free speech rights on their face. Aides to Garrison said the trial could not begin before January.

In other action:

Criminal Anarchy

Charges similar to Shaw's against New York's criminal anarchy law will be heard on oral argument. The Court agreed to decide whether a group of 11 Negro extremists — including two persons already convicted of plotting the deaths of Negro moderates Roy Wilkins and Whitney M. Young Jr. — should have been given an injunction and a ruling that the 1902 state law was unconstitutional.

The law, which became a model for the 1940 Smith Act, prohibited the advocacy of overthrowing the government of New York by force. The state amended the law last year but defense lawyers contend that it is as vague as ever, especially in light of recent Supreme Court decisions.

Extortion

Chicago officials won a high court hearing on their appeal from a lower Federal court decision that struck down the state's criminal extortion and "mob violence" laws. The officials said the District Court went too far when it held free speech rights were infringed by a law making it a crime to threaten to commit crimes.

Labor Investigation

Two New Orleans Teamster officials won a hearing on their claim that their constitutional rights are being violated by Louisiana's Labor-Management Commission of Inquiry. They charge that the Commission, by denying witnesses rights to counsel and confrontation of accusers, is furthering a plan to eliminate Teamsters critical of jailed president James R. Hoffa. The State says the Commission's procedures are as valid as those of the U.S. Civil Rights Commission.

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Civil Rights

In a case that may test the limits of the 1964 Civil Rights Act, the Court agreed to decide whether the 232-acre "Lake Nixon" recreation facility near Little Rock, Ark., is a valid private club as its white membership insists, or a public accommodation as contended by the NAACP Legal Defense Fund.

"Mallory Rule"

Citing a spotty record of trial evidence, the Court dismissed after argument a lawyer's plea to extend the so-called "Mallory Rule" to the states.

In a unanimous 1957 decision the Court threw out the rape confession of Andrew Mallory of Washington because he had been arrested without probable cause and held in violation of his right under Federal law to see a judge. An attorney for robbery defendant Carmine V. Palmieri of Miami said the same principle should wipe out the evidence against him as a matter of constitutional law.

Any ruling might have called into question a section of the new Federal Crime Control Act, which modified the "Mallory" safeguards for the Federal courts.

Selective Service

Also dismissed was the case of Phillip J. Stiles, 23, of North Kingstown, R.I., who is under a two-year sentence for failing to report for induction. His lawyers said Stiles should not have been punished because Navy doctors had found him unfit for service though sane at the time he ignored draft board orders.

But the Court agreed to decide whether a draft registrant can challenge his board's racial make-up at his criminal trial for refusing induction if he has failed to raise the issue earlier in accordance with Selective Service regulations.