

JFK Death Is Incidental to Shaw's Trial

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NEW ORLEANS — The most macabre facet to the slow-moving trial of Clay L. Shaw, accused of conspiring to murder the late President Kennedy, is that under the law it could be going on if Kennedy were still alive.

Flamboyant, controversial District Attorney Jim Garrison could very well have presented much of the same evidence he is going to present at this trial even if no shots had been fired in Dallas on Nov. 22, 1963.

This has become more evident as the process of choosing jurors has crept through the trial, now in its fourth day. The pace has

been such that two jurors have been selected each afternoon since the trial opened here on Tuesday. Yesterday a 28-year-old microfilm finisher was added to the panel as the fifth juror and also a petroleum engineer, 30, who told the court he was a gun enthusiast, became the sixth.

It is during the intensive questioning of all the prospective jurors who have been able to survive the basic questions posed by Judge Edward A. Hagerty Jr. that the legal extent of the alleged crime has come out.

While the prosecution always poses the idea that it might yet prove that conspiracy actually resulted in taking Kennedy's life

in Dallas, it steadfastly maintains that it does not have to.

Under Louisiana law the DA will have to prove that Shaw, who will be 56 on March 17, participated in a combination with one or more persons to plan the murder of Kennedy.

The fact that Kennedy was killed in Dallas on Nov. 22, 1963, really isn't germane under this statute.

But Garrison in his court-filed allegations has stated that the alleged conspiracy took place in New Orleans in September, preceding the assassination. And he has publicly claimed countless times that the alleged plot included at least seven anti-Castro Cubans and that they

gunned down the President in Dallas.

Garrison has challenged the Warren Report—which named Harvey Oswald as the lone killer — by claiming that Oswald was merely a decoy, that the killing was by the Cubans in a "crossfire" attack which included one sniper stationed in a sewer in front of the President's car.

But to prove the conspiracy Garrison must prove that Shaw or any one of the other alleged participants in the plot actually went one step further and committed an "overt act in furtherance of the alleged conspiracy."

In questioning the jurors,

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The State's Charges

The six overt acts charged are:

¶ That Shaw met with Oswald and David Ferrie, a pilot now dead, in Ferrie's New Orleans apartment in September, 1963.

¶ That a discussion of the means and weapons to be used in the assassination took place at the meeting.

¶ That a meeting took place in Baton Rouge, La., in the fall of 1963 at the Capitol Hotel between Shaw, Oswald and Jack Ruby, the Dallas night club operator who killed Oswald and who since has died.

¶ That Shaw made a trip to the West Coast in November, 1963. Shaw concedes he was in California, but denies the trip had anything to do with Oswald, Ferrie, Ruby or the assassination.

¶ That Ferrie took a trip to Houston, Tex., in November, 1963. This is a matter of public record.

¶ That Oswald took a rifle from a friend's garage on Nov. 22, 1963, in Irving, Tex., and brought it to the Texas Book Depository in Dallas. The War-

ren Report has said the same thing. It was from the Book Depository, the Warren Report said, the Oswald fired the fatal shots. Garrison disagrees.

Not Tried for Murder

Alcock has asked each of the prospective jurors before him if they understood that under the law "the state need only prove that one of the conspirators had committed an act in furtherance of the conspiracy," or if they understood that the state need not prove that John F. Kennedy was killed as a result of the conspiracy."

He has said that the state was "not trying Clay Shaw for murdering John F. Kennedy."

He also has explained that the state "did not have to connect the conspiracy with the actual death of John F. Kennedy."

Alcock has gone to great pains to explain that the "overt act" did not have to be a criminal act, that it could be an act that would be considered an "innocent" thing if not connected with an alleged conspiracy.

His favorite example is that to buy a rifle is innocent, but to buy one to carry out a plot to murder makes it an "overt act."

The defense has not been too vociferous in objecting to Alcock's interpretations of the law. It has argued about language. But most important of all it has explained that the overt acts are meaningless if there never was a conspiracy.

Therefore, Shaw's trip to California—something not too difficult to prove—is not enough to convict him if the State can't first prove that Shaw sat in on a plan to kill Kennedy.