

Shaw Judge Impugns State Witness; Denies Mistrial

By MARTIN WALDRON
Special to The New York Times

NEW ORLEANS, Feb. 19 — District Attorney Jim Garrison's staff moved unsuccessfully for a mistrial in the Clay L. Shaw trial late today after the judge said he did not believe one of the state witnesses and refused to allow the witness to testify.

The witness, A. W. Habighorst, was prepared to testify that Mr. Shaw, who is accused of conspiring to murder President Kennedy, had signed a jail register that contained the words "Clay L. Shaw, alias Clay Bertrand."

Mr. Habighorst was a jailer at a New Orleans city jail at the time that Mr. Shaw was being booked in 1967.

After an afternoon of exploring the question, with the jury absent from the courtroom, Judge Edward A. Haggerty Jr. said he would not allow Mr. Habighorst's testimony.

'Did Not Forewarn'

"Officer Habighorst did not forewarn Mr. Shaw of his right to remain silent," said the judge. "Even if Officer Habighorst is telling the truth, and I doubt it . . ."

Assistant District Attorney James L. Alcock was on his feet shouting at the judge. "Your honor, you are passing on the credibility of a witness before the press and the world."

The judge said the jury was the important factor in the case, not the press and the public, and he added, "Certainly I do not believe Officer Habighorst."

Mr. Alcock moved for the mistrial and, when the motion was denied, said that he would ask the Louisiana Supreme Court to force Judge Haggerty to allow the testimony or to declare a mistrial.

Mr. Shaw, a retired New Orleans businessman, took the stand during the long afternoon to testify that when he was arrested on March 1, 1967, and taken to the "central lockup" of the New Orleans police department, he was denied access to his attorneys while he was being fingerprinted and photographed.

He testified that Mr. Habighorst told him at the time to sign the blank fingerprint card, saying that the signature would be necessary for Mr. Shaw to be released on bond. There were no words typed on



Associated Press
Jessie Parker arriving to testify at trial of Clay Shaw in New Orleans yesterday.

the card at the time, Mr. Shaw said.

The defendant, who has not previously taken the stand, appeared to be calm. He spoke rapidly in a deep matter-of-fact tone of voice.

The jury heard none of the arguments nor the pre-offered testimony. It was kept in a jury room in the courthouse for the entire afternoon as the arguments swirled over the jail card.

Mr. Alcock had spent three hours trying to prepare for the introduction of the card that contained the words "alias Clay Bertrand." He called the card "an inculpatory statement."

The name Clay Bertrand had figured in the investigation of the assassination of President Kennedy since Nov. 25, 1963 when a New Orleans attorney, Dean A. Andrews Jr. told the Federal Bureau of Investigation that a protector of homosexuals in New Orleans named Clay Bertrand had asked him to go to Dallas to defend Lee Harvey Oswald, who had been charged with the assassination.

Testimony that Mr. Shaw had signed a guest register as

Clay Bertrand was given by Mrs. Jessie Parker, who said that in December, 1966, she was a hostess at a private lounge operated at New Orleans International Airport by Eastern Airlines.

Mrs. Parker testified that on Dec. 14, 1966, Mr. Shaw and another man, whose height she said matched Mr. Shaw's 6 feet 4 inches, came into the lounge and held a short conversation.

The man she said was Mr. Shaw particularly caught her eye "because of his pretty, gray hair," Mrs. Parker said.

After a few moments he signed the guest register, she said. "He looked over his shoulder at me about twice and then he left the room after having another short conversation with the other gentleman."

Questioned on Lie Test

Later, she said, she examined the guest register and found that he had signed it "Clay Bertrand." The following summer, she said, she saw Mr. Shaw's picture on a television program and recognized him.

Mrs. Parker said that a member of District Attorney Garrison's staff got in touch with her some time afterward to ask her if she recalled the man who signed the register.

Under cross-examination, Mrs. Parker said that she was brought into the courtroom on Jan. 21, the day Mr. Shaw's

trial began, and saw the defendant.

She said that at first she refused to identify him, but did identify him after the district attorney asked her to take a lie detector test.

The question about this was phrased this way by Mr. Shaw's attorney: "Were you threatened with a lie detector test if you did not change your mind and identify him?"

James L. Alcock, assistant district attorney, immediately called for subpoenas for the police department technician who gave Mrs. Parker the Lie detector test and for the results of the test.

Over defense objections, Judge Edward A. Haggerty Jr. said he would allow testimony about the test and its results. But after Mrs. Parker and the police technician testified that the lie detector test had been administered, Judge Haggerty reversed himself and refused to allow testimony about the questions and answers.

Dr. John M. Nichols, an associate professor of pathology at the University of Kansas, completed testifying today.

Dr. Nichols, after examining the motion picture made by Abraham Zapruder of President Kennedy's assassination, said he had deduced that the shot that struck Mr. Kennedy in the head and killed him had been fired from in front of him.