

ART KUNKIN: OUR MAN IN NEW ORLEANS

NEW ORLEANS, Feb. 11—As the trial of Clay Shaw for his alleged participation in a conspiracy to kill former President John F. Kennedy moves into the second week of testimony, there are two unresolved questions: will the introduced evidence prove sufficient to convict Clay Shaw? Will the evidence topple the Warren Commission Report and his theory of a single assassin?

The first five days of evidence seemed to place Clay Shaw in close relationship with persons he has previously denied knowing, including "Leon Oswald." But this is a long way from establishing a conspiracy, let alone proving the condition of an overt act which could lead to a conviction on a conspiracy charge. Nevertheless, the fact that this trial is being held at all is not only a victory for New Orleans District Attorney Garrison's office, which most observers would not have thought possible a year ago, but an affirmation of fundamental legal traditions and safeguards which the Warren Commission deliberately, and to its discredit, did not follow.

It is not common knowledge that the Warren Report was criticized for these deficiencies last year by the three New Orleans judges who ruled, after a preliminary hearing, that there was enough evidence against Clay Shaw to justify a trial. During the course of this preliminary hearing, there was a dramatic moment when the three-judge panel

refused to let the Warren Commission Report be introduced as evidence (this episode is related in a book, "Plot or Politics," by two New Orleans reporters, Rosemary James and Jack Wardlaw.)

Shaw's chief attorney, F. Irvin Dymond, had obtained from Perry Russo, the main Garrison witness, an answer which put Russo in conflict with the Warren Report. Russo had said he had seen the man Leon Oswald in New Orleans at a time when it was claimed by the Warren Commission that Oswald was in Mexico.

While an assistant district attorney objected that the Warren Report had "never been proven in court," Dymond's staff began to bring the entire 26 volumes of the Warren Report into the courtroom.

Judge Bager leaned forward to Dymond and said, "You are going to introduce the Warren Report? You are not serious, are you?" Dymond insisted that he was, indeed, serious.

"You mean it is your interpretation that you can put the whole Warren Report in evidence?" asked Bagert. Without waiting for a reply, Judge Bagert turned to his fellow judges, and the prosecution's objection was sustained on the grounds that the Warren Report was hearsay.

Hearsay is where a witness tells of the words and actions of others. Hearsay evidence is not ordinarily permitted in courtroom proceedings because it is deemed necessary for justice that

all witnesses to an action testify as to their own behavior. Adversary attorneys then cross-examine each witness so that judge and jury may determine the truth. The Warren Commission did not use these safeguards. It did not submit adversary attorneys for cross-examination. Therefore the Clay Shaw trial was the first time Kennedy's assassination was being discussed in a properly legal environment.

Ironically, Mark Lane, the attorney who first brought to the world an understanding of the legal deficiency of the Warren Commission procedures with his best-selling book, "Rush To Judgment," is not permitted to attend the proceedings in New Orleans because he is one of the scheduled witnesses when the trial gets to a discussion of the actual shooting at Dealey Plaza, Dallas, Texas.

Lane moved to New Orleans some time ago to aid in Garrison's investigation, but has been in Europe on tour (which is one of the reasons he has not been writing for the L.A. Free Press recently). He has now rented another house in the French Quarter, and may sometimes be seen emerging from Garrison's staff office at the far end of the court building.

As if to underscore the deficiencies of the Warren Report, which Lane and dozens of other critics had analyzed, it is very noticeable that not only the defendant Clay Shaw, but 14 of the

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16 witnesses called in the first five days of the trial are not mentioned in the index of the Warren Report. On the first day of trial, five witnesses gave strong, credible testimony which, when combined, placed Clay Shaw, Lee Harvey Oswald and David Ferrie together in Clinton La. in the summer of 1963. A barber testified that while giving Oswald a haircut, he told Oswald of a job which might be available through then State Representative Reeves Morgan.

Morgan, who was a second witness, testified about a conversation which took place when Oswald visited his home. He advised Oswald to register as a voter in the area of the job opening.

The next three witnesses, which included the town marshal of Clinton, a registrar of voters, and a Civil Rights worker observing the election, testified that their attention was drawn to a black Cadillac from out of the Clinton area, and to its three white occupants, one of whom got out to register.

The town marshal asked the driver of the Cadillac for identification (the tense election involved the fifth-time registra-

tion of many blacks) and was told that the driver was a representative of the International Trade Mart, New Orleans.

Clay Shaw, who is the retired managing director of the ITM, was identified in court by the marshal as the driver of the car.

The Clinton registrar of voters testified that Lee Harvey Oswald was one of the two white men in line to register that day, and that he had an extensive conversation with Oswald about the job opening. The third man in the car was identified by some of Clinton witnesses as David Ferrie (See Garrison's opening statement in this issue for information about the alleged conspiracy between Shaw, Oswald and Ferrie. Before his death, Ferrie denied knowing Oswald, while Shaw's attorney, at a press conference after his arrest some two years ago, denied that Shaw knew either Ferrie or Oswald.

In his opening statements, Dymond, chief defense counsel, said that "We are not here to defend the finding of the Warren Commission... the defense has neither the inclination, the desire nor the money to do so. The Warren Commission interviewed 25,000 witnesses.

It is the defense's judgment to strike at the very core of the state's case—the alleged con-

spiratorial meeting between Shaw, David Ferrie and Lee Harvey Oswald... Perry Raymond Russo is a liar, a notorious-seeking liar whose every name does not deserve to be mentioned among honest and just people. We can prove this... I ask you not to let what happened at Dealey Plaza in Dallas obscure your view of this conspiracy case."

The first witnesses called on the second day of evidence, last Friday, were people who had either seen the black Cadillac and its occupants in Clinton, or employees of the hospital near Clinton where Oswald applied for a job. The next set of witnesses were New Orleans policemen and others who saw several episodes when Oswald was distributing pro-Cuba leaflets.

Vernon Bundy Jr., a narcotics addict, testified that in late June, 1963, he was at a lakefront and beginning to cook some heroin, when he observed a man emerging from a black limousine and then meeting another, younger man. Bundy said he thought that the strangers were police officers, watched them closely, and observed what seemed to be money passing from the older to the younger. Bundy said that when the younger man took the money, several pro-Cuba leaflets dropped from his back pocket. Bundy

identified Shaw in the courtroom as the older man, and identified the younger from a photograph as Oswald.

The final witness for that day was an accountant from New York, Charles Spiesel, who testified that Ferrie introduced him to Shaw at a June, 1963, party in the French Quarter, at which there was a discussion of how to assassinate President John F. Kennedy.

Defense Attorney Dymond was naturally not idle during all of this. He critically questioned all of the prosecution witnesses and moved for a mistrial when the judge seemed to be commenting on testimony. The judge denied a mistrial motion the first five days of testimony, but it was clear that Dymond was accumulating points for an appeal. If Shaw is convicted, courtroom observers commented that the appeals could go on for twenty years or more on the issues Dymond is raising. Dymond is a competent and clever defense attorney.

Spiesel's surprise testimony at first seemed like a blockbuster. However, the witness did not look good once Dymond began to cross-examine him and uncovered what seems to be discrepancies in Spiesel's description of Ferrie.

To the obvious dismay of Garrison's staff, Dymond also began to probe Spiesel's background, uncovering a person with a history of numerous lawsuits, alleging conspiracy and hypnotic plots.

On Saturday, Spiesel led the judge and jury to two French Quarter houses where the alleged party could have taken place, but did not make positive identification of either. Both houses were near Shaw's residence. Later investigation by local newsmen seemed to show that Shaw had secretly attended parties at one of these houses.

It is interesting to note that the L.A. Times did not front-page the credible beginning of the Clay Shaw trial until the testimony of Spiesel. Spiesel rated page one with a commentary of Garrison's case crumbling. The view from New Orleans, however, is that nothing is decided or is likely to be for some weeks to come. Those wanting a daily view of the trial, which is almost equivalent to a full transcript, should subscribe to the New Orleans Times-Picayune for the next two months.)

Perry Russo, a 27-year-old book salesman, testified Monday and Tuesday with Dymond doing

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22, 1963.

The State will qualify ROBERT H. WEST, the County Land Surveyor for Dallas County, Texas, as a licensed registered public surveyor and thus competent to testify as an expert as to the geographical aspects of Dealey Plaza, Dallas, Texas. In conjunction with the testimony of MR. WEST, the State will offer into evidence a certified survey, an aerial photograph and a mock-up model of Dealey Plaza.

The State will also qualify DR. ROBERT SHAW as an expert in the field of medicine, and in connection with this testimony we will offer X-rays and medical records concerning GOVERNOR CONNALLY's wounds and treatment at Parkland Hospital in Dallas, Texas.

The State will qualify and offer the testimony of DR. JOHN NICHOLS, a medical expert in the field of forensic medicine and pathology. In connection with his testimony the State will offer certain exhibits and photographs into evidence.

Furthermore, during the presentation of this case, the State will qualify and offer the testimony of Special Agent ROBERT A. FRAZIER of the Federal Bureau of Investigation as an expert
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his utmost to shake Russo's calm certainty in his story of also being present at a party-meeting in September, 1963, when details of a plot to kill Kennedy were allegedly discussed.

Dymond attempted to make much of the fact that Russo had an amazingly good recollection of people and dates but could not testify as to many particulars of the evening in question.

There were also many exchanges about Russo's failure to go to the authorities with his informa-

tion before Ferrie's mysterious death in 1967. Russo explained that he did not take the conversation seriously. He carefully avoided (and objected to) any information that he had knowledge of observing a conspiratorial assassination plot.

I am not a lawyer. It seemed to me that as calm and convincing as Russo was on the stand, his testimony might not legally contribute to a conspiracy conviction. If Shaw takes the stand, and still denies having known Ferrie and/or Oswald, and Garrison, he may very well get a perjury conviction as seen from this one week of testimony. But

this week of testimony to a non-lawyer does not seem to prove an overt conspiracy.

As seen in the courtroom, Clay Shaw is an aristocratic person whose face, build, mannerism and walk are so distinctive that one can very well believe a witness who claims to have seen a man once and then make a positive identification years later.

The courtroom is small, and jammed with newsmen from all over the country. People who were at the preliminary hearing two years ago, however, say that there were then more people trying to get in. Perhaps the fact that Johnson is no longer President makes people believe this is truly another political era; the speculations that applied to LBJ about Kennedy's assassination cannot easily be transferred to Nixon.

The security of the Clay Shaw trial is terribly deficient and a contrast to the Sirhan trial. They require all visitors to the trial here to obtain special credentials and be photographed. Credentials seem to be issued too quickly, without adequate checking of identification. The search that each visitor to the courtroom undergoes at the beginning of each session is perfunctory, amounting in the case of a man to a "patting down" which could not uncover a weapon strapped to the leg. Women are also searched, but so timidly that they could bring anything they wanted into the courtroom.

Garrison personally made the opening statement, but has not been in the courtroom since. James C. Alcock is the main prosecution attorney. He is said to be the best courtroom lawyer in Garrison's office.

Many people coming to court are obviously using the book "Plot and Politics" mentioned previously, as the guide to New Orleans' involvement with the assassination.

One of the peculiar aspects of the trial itself is the all-male jury. On inquiring the reason for this, I was told that jurors in Louisiana do not get paid, and women are not required to serve. Some knowledgeable people say that this is the first time in their memories that a jury has been continuously sequestered. Ordinarily, New Orleans juries are not separated from their relatives and friends for more than a day or two even in the most serious cases.

There is a closed circuit tele-

vision camera surveying that part of the courtroom where judge, jury, prosecution and defense attorneys and witness stand are located. I am told the receiver is in the sheriff's office, and only a small part of the court audience could be seen with the particular placement of that camera.

That TV camera contributes almost nothing to security. But perhaps they're not worried about Clay Shaw since he has been out of jail on bond for two years now, and many people tell me that Shaw is to be seen nightly in restaurants and on the streets of the French Quarter.

Perry Russo is a convincing witness. He insists on qualifying all statements. Even when he says he is sure of something, he will then go on to say he would like to be more sure. You get the feeling of a man searching for ways to express truth.

He tries for precision of language, but in the process sometimes only succeeds in confusing the listener. He will admit to making statements like, "I sometimes can't tell the difference between fantasy and reality." Taken out of context, these statements

are damaging to his credibility as a witness. Then he makes lengthy explanations that the statement was made in connection with the webs of untruth spun by newsmen around him as they try to challenge his testimony. Finally, it gets across that he is sure of his opinion, but made the statement about fantasy and reality as a judgment of all the other opinions around him.

I really wonder why Russo denies knowledge of those individuals who were evidently the steady homosexual companions of David Ferrie. If he knew Ferrie as well as he says he did, he must have met these men at one time or another. Russo is not convincing in denying this knowledge.

And when Russo admitted, under cross-examination, that he helped the Garrison staff eavesdrop on newsmen interviewing him, some of the clean innocence he projects fades away.

In "Plot and Politics," an Italian newspaper is quoted as saying that Clay Shaw was on the board of directors of a corporation that was a front for the Central Intelligence Agency.

James and Wardlaw say that the CIA allegation was not well documented and that Shaw had denied any involvement with the CIA. However, Shaw has admitted memberships in the corporation

cited as a CIA front, the World Trade Center Corp., a company whose board of directors at one time included Ferenc Nagy, once prominent in Hungarian politics; a former WW II Office of Strategic Service (OSS); Major L.M. Bloomfield, who is now a banker in Montreal; and an uncle of King Farouk.

Next Tuesday, Feb. 18, is Mardi Gras in New Orleans. Every night now, there are parades in various sections of the city.

The Clay Shaw trial is in session six days a week, usually from nine in the morning until six in the evening. The judge was going to work through the big carnival on Shrove Tuesday, but defense and prosecution prevailed on him to adjourn for that day. (Were the whips, chains and black capes found in Clay Shaw's house really part of his Mardi Gras costume?)

The following proclamation is posted all over the city: "It is Our Royal Decree that this most Regal Day, born in Laughter, nurtured in Delight and maintained in Gaiety, be fully observed by the People of the Realm of all Degrees, Genders and Traditions, and that Sour Melancholy be Banished to Outer Space and that the Dreary and the Dull be tossed into Permanent Orbits."