

# Court Proceedings in Clay

\* 2/28/69  
Court proceedings in the 33rd day of the conspiracy trial of Clay L. Shaw follow:

The first witness for the state this morning was Dr. John M. Nichols, who had been qualified earlier as an expert in pathology and forensic medicine. He was questioned by assistant district attorney William Alford.

Q—Are you familiar with the skeletal structure?

A—Reasonably so, sir.

Q—Are you familiar with the anatomy of the human head?

A—Yes, sir.

ALFORD then began setting up a hypothetical situation which corresponded with the Warren Commission findings on the entry of a bullet through President Kennedy's neck.

Q—Assume that a man was struck by a rifle bullet in the neck five inches down from the right mastoid . . . and two inches from the center line (of the back). Assume that the wound of entry measured seven millimeters by four millimeters and the bullet followed a path through the neck.

ALFORD asked Dr. Nichols to further assume that there was a nick on the left side of the necktie of the person in question, made by the exit of the bullet and that no bones were fractured by the path of the bullet.

Q—Is anything inconsistent in these facts?

A—You have mentioned a measurement of two inches from the midline . . . the proposition you have stated is impossible. If the bullet entered two inches from the midline of the back, it would absolutely be required to strike a cervical vertebra.

Alford then asked the wit-

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ness if a bullet fired from a northeast window of the Texas book depository, entering the body at the point stated, could have passed through the neck in the manner outlined.

CHIEF DEFENSE counsel F. Irvin Dymond objected to the question on grounds that the witness was not qualified to answer. The objection was sustained by Judge Edward Haggerty.

Q—Dr. Nichols, what would be the lateral angle the bullet would have to be fired to enter in the manner described?

A—28 degrees.

Q—Why?

A—If the angle is less than that, the cervical vertebrae will be fractured.

ALFORD then showed Dr. Nichols a diagram and asked him to comment on it.

A—This represents a schematic diagram of the human neck . . . showing the area at which point the bullet entered President Kennedy's neck. The drawing was done at my request in 1967 and shows the angle at which the bullet would have to strike to go through the neck.

Q—Doctor, have you had an occasion to view the Zapruder film?

A—Yes, I have.

Q—Do you have an expert opinion as to the location (in the film) when the president was first struck?

Dymond again objected on grounds the question was outside the knowledge of the witness and Alford rephrased the question.

Q—Dr. Nichols, from view-

ing the Zapruder film, can you determine in what frame the president was hit?

THE WITNESS STARTED to answer the question, but Dymond objected and Judge Haggerty agreed the question was outside the scope of the witness' expertise.

Alford argued that on both direct and cross-examination defense witnesses said they were not able to state the lateral angle of the shot that passed through the president's neck, and that Dr. Nichols was able to rebut this testimony.

"He feels he can state a minimum angle." Asst. Dist. Atty. Alvin Oser maintained defense witness Col. Pierre A. Finck testified as to where he found the wound in the president's throat and also to the track of the bullet.

"I sustain Mr. Dymond's objection," said Judge Haggerty. "It's repetition."

Alford then set up another hypothetical situation.

Q—Now, Dr. Nichols, two persons are proceeding in an automobile and a bullet made a path through the neck of the rear person, that is the person seated in the

rear of the automobile, in your expert opinion, where would the person have to be seated in front to be hit in the left arm?

DYMOND AGAIN objected and was sustained by the judge.

Q—Doctor, if at the time the president was reacting to a stimulus, would the angle of his body have been affected by the angle his head

was turned, if it was turned?

A—It would, very slightly.

Dr. Nichols explained there are seven cervical vertebrae and when the head is turned there might be a

slight turning of the body but he added, "You get practically no rotation."

Alford then asked the witness if from viewing the Zapruder film he was able to detect any movement of the president's left shoulder away from the seat of the car.

DYMOND AGAIN objected and the judge sustained the objection.

Q—If, in fact, the size of the wound in the rear of the neck is seven millimeters and the wound in the area of the knot of the tie is five millimeters, are these two wounds consistent to wounds of entry and wounds of exit?

Dymond again objected but was overruled.

ALFORD THEN ASKED the doctor if a seven-millimeter wound of entry and a five-millimeter wound of exit "is consistent with your experience as a pathologist?"

Dymond again objected but was overruled and the doctor answered the question.

A—Generally speaking, the wound of exit is larger than the wound of entry.

Q—Now, doctor, if you were engaged in the performance of an autopsy and found a wound seven millimeters by four millimeters in the back of the neck, but could not find a wound of exit, what steps would you take?

A— I would have X-rays made . . . not having found a missile in the body, I would have dissected the track (of the bullet).

Q—Any other way of determining except by X-rays or by dissecting?

A—If the subject is in the exact position when the injury is inflicted and you know the hole of entrance and hole of exit.

Q—Not knowing hole of exit







to have been struck by that same bullet?

A—Very much to the left.

Q—In the Zapruder film, can you see where Gov. Connally was seated to the left?

DYMOND objected on the ground that the witness was not qualified to determine whether Connally was seated to the left.

Alvin V. Oser, assistant district attorney, at this point, rose to argue that the testimony is designed to counteract the testimony of (Robert A.) Frazier. The state was introducing the exhibit to show what would happen if a bullet were fired from a 28-degree angle.

The judge then permitted the question.

Q—From your examination of Frame 225 of the Zapruder film, was Governor Connally seated 18 inches to the left of President Kennedy?

Dymond again objected that the witness was not qualified to make such an observation, but the judge overruled him, saying that anyone who had seen the Zapruder film could determine that much.

A—He was sitting approximately in front of the president and not 18 inches to the left. Perhaps, he might have been one inch to the left, but not 18 inches.

At this point Dymond began cross-examination.

Q—NOW, DR. NICHOLS, did you ever examine the president's limousine?

A—I have not. I wrote to the Secret Service and even went to Washington. They met me at the airport and apologized for not allowing me to examine it, but they did give me its measurements.

Q—Are you the same Dr. Nichols who was suing the government?

A—I am suing the government right now.

Q—NOW, DR. NICHOLS, before signing an autopsy report, would you consider testimony of an eye-witness?

A—It wouldn't influence my decision.

Q—Now, in the case of a skull wound where you could not find beveling, did you ever take into consideration eye-witness testimony?

A—I would not take that

into consideration, but rather I would depend more on my own observations.

Q—Is that all?

A—That's all.

Q—Did not you testify that you would not take the testimony of an eye-witness?

A—If I said that I would like to withdraw it at this point and say that I would attempt to find such witnesses and would consider what they had to say.

Q—Now, Dr. Nichols, if you couldn't find a wound or a point of exit, would you reject a statement of a brother pathologist, whom you know to be qualified, to say that he had found a point of exit?

A—I would consider the possibility that he might have made an error. I can remem-

ber one such wound where we found no point of exit in the front and later determined that the victim's mouth was open and that it had come out of his mouth.

Q—Did you ever examine the remains of President Kennedy?

A—No.

Q—Did you ever see the X-rays of the president's body?

A—I have not.

Q—Have you ever seen the autopsy photos?

A—I have not.

Q—Now, Dr. Nichols, is it a fact that you were a student of Dr. Finck?

A—I ATTENDED three lectures which he gave and to that extent I am his protege but he has refused to talk to me about this matter. I went to Washington to see him, but he rejected me.

At this point the defense tendered the witness and took a five-minute recess ~~(2:10)~~



Peter Schuster was the next rebuttal witness called by the state. Oser questioned him.

He testified he works as a photographer in the Orleans Parish coroner's office, where he has been employed for 10 years.

**HE SAID HE HAS** a degree in photography from Delgado College, and that he taught photography there.

Q—How many pictures would you say you take and develop during a year in the coroner's office.

A—Oh, about five or six thousand a year.

Oser then asked him if he does photography work, outside of his duties with the coroner's office and Schuster said he does.

He said he develops and prints photographs.

Q—Do you have occasion to analyze the products of your work?

A—Yes, I do.

Q—Can you give us an example of some of this analysis?

A—Well, for example, I've done analysis of suicides.

**THE WITNESS** testified he takes enlargements of small pieces of evidence found at the scene of suicides.

Q—Have you ever failed to qualify in court as a photography expert?

A—No.

Q—Have you ever been qualified as an expert in the federal courts?

A—Yes, I have.

Oser then tendered the witness for questioning by defense about his being admitted as an expert photographer.

**DYMOND SAID THE** defense is willing to stipulate that Schuster is an expert on taking pictures and enlarging them . . . "but that's as far as we'll go."

Oser countered that he had questioned about analysis of photographs.

Dymond then began challenging Schuster's expertise.

Q—What training have you had in photo interpretation?

A—In the two-year course I took, interpretation was a part of the course.

Q—What field of photography does this cover?

A—Identifying objects from

enlargements.

Q—**DID YOU EVER** qualify before in court as an analyst?

The witness asked, "Do you mean identifying photographs?"

Dymond said he did.

Q—I mean, as a photo analyst, have you ever qualified in court before?

A—Not that I can recall.

Q—Did you ever attempt to qualify as a photo analyst before?

A—Not that I can recall.

The judge got out a law book to see what it takes to qualify as an "expert."

Judge Haggerty said scientific training is not needed, and a man may qualify by virtue of practical experience.

Dymond said the witness never had experience in photo analysis, in his opinion.

**THE JUDGE CORRECTED** him and said, "I think you mean interpret and not analyze."

The judge allowed the witness to qualify as an expert in analyzing and interpreting photos. Dymond reserved a bill of exception when he raised an objection and was overruled.

Oser resumed questioning of the witness:

Q—I show you state exhibits marked S-15 and S-52, and I ask you if you have seen them before.

A—Yes, sir, I received them from you Jan. 20.

Q—How long did you keep them?

A—Until about Feb. 13.

Q—Did you do any work or examine them?

A—I examined these photo-

graphs from Jan. 20 to Feb. 10.

Q—**HOW MUCH TIME** did you spend examining these photos?

A—I could not say accurately. I would estimate 50 to 60 hours.

Q—I show you state exhibit S-5-1 and ask you if you had occasion to examine any specific area of the photograph?

Dymond objected, saying this type of testimony has no place in rebuttal proceedings.

**OSER SAID IT** was relevant and the photos were being offered to rebut testimony that all shots had come from

the rear.

Alcock said the relevancy was for the jury to decide, but Dymond said he objected to their admissibility.

Judge Haggerty overruled Dymond's objection and Dymond reserved another bill of exception.

**DYMOND SAID HE** wanted the bill to apply to all questions asked pertaining to the photographs.

Oser continued:

Q—I show you exhibit S-51 and ask you if you examined any particular area.

A—Yes, I did.

Q—Which area?

**THE WITNESS POINTED** to the right top corner of the photograph.

Q—What did you do if anything with regard to this photo? A—I copied it, I enlarged it.

Q—Do you have any such blow-ups in your possession?

A—Yes, I do.

He produced the blow-ups.

Oser showed them to the defense counsel and then to the judge. Oser marked them as state exhibits, and asked Schuster to identify one he marked S-83.

A—Yes. My signature is on the reverse side.

Q—**DID YOU DEVELOP** this photo yourself?

A—Yes, I did.

Q—From what?

A—From the original 8 by 10 marked S-51.

Oser then showed him S-84 and asked for an identification.

Schuster said his signature on the back identified it as another enlargement, and that he took the photograph.

**HE SAID S-84** represents "In my opinion . . . a man."

Dymond jumped to his feet and said he objected to this opinion testimony, but the judge said he had already ruled the witness was an expert and could testify about his opinions.

Q—How was exhibit S-84 made?

A—Before blowing up S-83, I saw a man in the corner of S-83 and I enlarged it.

He said he developed the enlargement himself. He then identified a photo marked by Oser S-85 and said it represents the top right corner of the original S-51 . . . "an ex-



treme blow-up of the man in the photo."

He pointed out the area in which he observed what appeared to be a man and he circled the area on S-83, 84 and 85 as Oser's request.

Dymond objected to the testimony of the witness on grounds it had no place in rebuttal. He was overruled by Judge Haggerty, and filed a bill of exception.

Schuster brought with him further copies of what has been identified as state exhibit 85. He said they were taken from the same negative and were enlarged.

**HE ALSO BROUGHT** 14 copies of the enlarged right top corner of the photograph which were eventually distributed to each juror after Judge Haggerty ruled them admissible as evidence.

Q—From S 85, what type of investigation did you make and what were the results?

A—The area (the top right corner) was photographed by me and in reproducing this area to an extreme enlargement, this man was found. I studied the photograph through a magnifying glass and it became definite there was a man.

Q—What else did you find?

A—He appears to be holding something.

**OSER THEN TENDERED** the witness to the defense and Dymond took up the questioning.

Q—Are you testifying under oath in this courtroom that you are certain this is a man?

A—I think it's plain to me. I'm definitely sure.

Q—And he's holding a gun, too?

A—I didn't say that. I can't be sure. I don't know what he's holding.

Q—But this is definitely a man?

A—That's right.

Dymond said: "That's all," and tendered him back to the state.

**JUDGE HAGGERTY THEN** allowed the blown-up photographs to be admitted as a state exhibit. He let Oser distribute the pictures, one to each juror. The jury took almost five minutes to exam-

ine their copies and there was some conversation among them.

Haggerty cautioned them openly: "Don't discuss this with each other. Don't tell each other what you see. You can do that later."

He then excused Schuster and called a five-minute recess.

District Atty. Jim Garrison then called the state's next witness, Mrs. Elizabeth McCarthy Bailey, a handwriting expert from Boston.

Q—Would you give us your name?

**ELIZABETH M'CARTHY BAILEY**, but I use my maiden name in my business.

Q—What is your business?

A—I am an examiner of questioned documents, called a handwriting expert.

Q—What is your educational background?

A—I have an A.B. degree, a M.A. degree and L.L.B. degree.

I have studied handwriting, erasures, typing, anything that goes to make up documents.

Q—**HAVE YOU EVER** been qualified in other states?

A—Yes, I have testified in 38 states in the last 30 years and three foreign countries.

Q—During the past 15 years, in how many court cases have you testified?

A—I get two cases a day. Garrison submitted Mrs. McCarthy as an expert. Dymond said he would like to ask her a few questions.

Q—You stated you received an A.B. degree. Is that related to handwriting?

A—No.

**YOU STATED YOU** received a M.A. degree. Is that related to handwriting?

A—No.

Q—You stated you received an L.L.B. degree. Is that related to handwriting?

A—No.

Q—When did you take a course in handwriting?

A—I took a course for three or four years around 1930.

Q—**WAS THAT** a formal school?

A—No, but the man who taught it has written three or four books.

Q—Was that the extent of

your training?

A—No. I familiarized myself with everything in the field, collected typewriters, ink and other things that are constantly changing. It is a continuing process of education.

Q—Did you say your training is intermittent?

A—**NO, AS NEW** problems come along, I have consulted with experts.

Q—Where is your office?

A—Boston, Mass.

Garrison then began his direct examination.

Q—Did you have occasion to examine writings by Clay Shaw, the defendant in this case?

A—Yes.

Q—I show you documents D-30—D-43. Have you seen them before?

A—**YES, I HAVE.**

Q—When did you see these?

A—I saw copies . . .

Dymond objected and Judge Haggerty asked Garrison to rephrase his question.

Q—Did you see these documents before?

A—Yes, I examined D-30 to D-43 in the property room of this building.

Q—**THEREAFTER, DID** you study the questioned signature that reads, "Clay Bertrand"?

A—Yes.

Q—Put them side by side. As a result of your studies of the defendant, Clay Shaw's signature, did you reach any conclusion?

A—Yes.

A—It's my opinion that it's highly probable that Clay Shaw signed the name Clay Bertrand.

Q—**WOULD YOU GIVE** your reasons for your opinion?

A—I find all Mr. Clay's unconscious writing habits in the signature, Clay Bertrand. He is a very facile writer with a light pen. All of these characteristics I find in the questioned exhibit. This is an unusually agile writer. The signatures are reasonably similar.

In addition, I find similarities in all of the letters except the capital B. This may not be unusual. It's not un-

usual in this case to write in a different fashion than normal.

**I FIND THIS FORMING** of the small "a" and the small "n" is rather unusual. Mr. Clay at times makes a capital "L" in Louisiana with a long line. I'm not identifying figures because I don't have a significant basis for this.

For all these reasons, because I don't find appreciable variance, I have concluded that the signatures are the same.

Garrison said: "Mr. Dymond, your witness." Dymond then began his cross-examination:

Q—When were you first retained in this case?

A—**YESTERDAY.**

Q—When did you arrive in New Orleans?

A—Last night.

Q—When did you commence your studies?

A—Last night in my hotel I saw copies of the signatures.

Q—When did you see the originals?

A—This morning.

Q—How long have you spent studying this case?

A—Four or five hours.

Q—Have you enlarged any of the signatures?

A—No.

Q—**WHAT EQUIPMENT** did you use in reaching your conclusions?

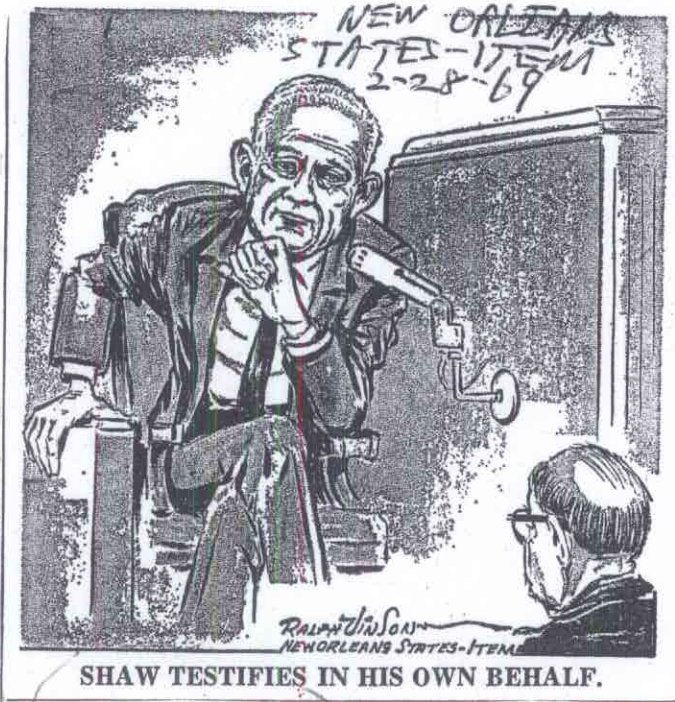
A—I'll show you. This binocular.

Q—I see, are you being paid to testify?

A—I hope so, it's my business. Mr. Garrison didn't mention a fee. He told me just to submit a bill.

Q—You do expect to charge a fee, don't you?

A—Naturally, that's my business.



SHAW TESTIFIES IN HIS OWN BEHALF.