Not With a Roar But a Whimper:
The Shaw Trial, the Garrison Wreck

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Two years of grandiose claims by New Orleans District Attorney Jim Garrison ended in mortifying default in the early hours of March first, witht the unanimous first-ballot verdict of a jury that took less than an hour to find Clay Shaw not guilty. The prosecution case had been humiliatingly rejected.

At the outset of the trial, the State had called a number of witnesses from Clinton, Louisiana, who testified that they had seen Oswald and/or Clay Shaw and/or David Ferrie in their town in the summer of 1963 during a voter registration drive. The State was seeking to prove that Shaw knew and associated with Oswald, and with Ferrie. But the identifications by the Clinton witnesses, some five years after the event, of strangers seen on one occasion under circumstances in no way remarkable, could have no inherent plausibility. Defense witnesses later placed Shaw in his New Orleans office at the time he was supposedly seen in Clinton, and ruled out his use of a car in which he was supposedly viewed there. Yet the Clinton witnesses emerged relatively unscathed compared with those who followed them to the stand for the State.

Vernon Bundy, jailbird and ex-narcotics addict, repeated his story of having seen Shaw with Oswald in mid-1963, with no greater credibility than when he had testified to the same effect in March 1967, identifying Shaw as the man he had seen on one occasion some four years earlier.

A "Surprise witness," Charles Spiesel, a New York City accountant, probably surprised the prosecution more than anyone else. Spiesel, like Perry Russo, said that he had attended a party in New Orleans in 1963 at which Shaw and Ferrie were present and where there was talk of assassinating President Kennedy. His allegations at first glance were gravely damaging to Shaw. Under cross-examination, however, Spiesel admitted that he was the victim of many plots, that he had been hypnotized and tortured, and hounded by a Communist conspiracy. He had filed suits against various public agencies and private individuals, to the tune of $16 million; he blamed the Communists for the loss of his virility; and he had at times fingerprinted his own daughter for fear that she was an impostor. As rich as this testimony was in comic pathos, it was no help to Garrison that he had placed so ridiculous a witness on the stand---with, or without, prior knowledge of his case history.

The incredible accountant was followed by witnesses scarcely more imposing and almost as vulnerable. A letter-carrier, James Hardiman, testified that he had delivered letters to "Clay Bertrand" in care of a close friend of Clay Shaw's, who for a while had received Shaw's mail while Shaw was in Europe. Asked by a defense lawyer if he had delivered mail addressed to a Cliff Boudreau to the same address, the postman replied that he had. The lawyer then asked Hardiman what he would say if told that the lawyer had just invented the name "Cliff Boudreau." And the witness, almost inaudible with embarrassment, responded that he might have done so. So much for the letter-carrier.

Another State witness was Mrs. Jesse Parker, who identified Clay Shaw as the man who had signed the name "Clay Bertrand" on the register of the airport VIP lounge where she was then a hostess, in December 1966. Garrison had not submitted the signature to handwriting analysis before taking Mrs. Parker's testimony. A defense expert, Charles Appel, Jr., made a detailed comparison between the "Clay Bertrand" signature and Clay Shaw's actual writing and testified for the defense that it was his conclusion that Clay Shaw did not write the signature in the VIP register. Only later did Garrison call his own expert, as a rebuttal witness; she told the court that Shaw had "very probably" signed the book---and also that she expected to be paid for her testimony (Appel had volunteered his services in the interests of justice).

In further rebuttal of the allegation that Shaw had signed the register as "Clay Bertrand," the defense provided evidence that Shaw always traveled by rail and had no reason to visit the VIP lounge. More significantly, the defense called Arthur Q. Davis, architect, who had signed his name in the VIP register on the line just above the "Clay Bertrand" signature. Davis was acquainted with Shaw; he testified that Shaw was not present in the VIP lounge at the time, and that no one had signed the register during the 20 or 30 minutes he himself had remained in the lounge.

The fact that the disputed signature was the last one on the page, and the fact that Shaw was already under Garrison's suspicion at the time (he was called in for questioning about a week later), suggests the need for further handwriting comparisons, between the mysterious signature and the writing of those associated with Shaw's accuser. Nor is this the first or the only piece of "evidence" that raises the possibility of fabricated documents (see E. J. Epstein in The New Yorker, July 13, 1968).

Another would-be star witness for the prosecution was a policeman, Aloysius Habinghorst. He was to testify that Shaw had admitted his use of the alias

"Clay Bertrand" while being fingerprinted after his arrest by Garrison in March 1967. Presiding judge Edward Haggerty, who had been giving great latitude to the prosecution, balked at Habinghorst and angrily denounced him as a liar--his story was contradicted by other police officers present at the time--refusing to allow him to repeat his testimony in the presence of the jury. Judge Haggerty charged also that the police had violated Shaw's constitutional rights by barring his attorney from the room where he was being booked and ruled that Habinghorst's testimony would be inadmissable even if true.

Assistant District Attorney Andrew Sciambra took the stand but was unable to provide a credible explanation for his omission from his report of Perry Russo's first interview of the most pivotal parts of Russo's story: the interview report made no mention of the party in Ferrie's apartment, the conspiratorial discussion, the presence of "Clem Bertrand" or Clay Shaw, or Oswald. Even more embarrassing, in the wake of Garrison's constant jibes at Warren Commission witnesses who had burned papers or documents destroyed by mysterious combustion and incineration, Sciambra admitted under cross-examination that he had burned his notes of the Russo interview, he did not remember when, for "security reasons." "Security" measures in Garrison's office are best judged in the light of the free access given numerous visitors and admirers ~~to the files~~ to examine the files and even to make copies of the contents--including files and materials not yet examined by the D.A.'s staff!

Another awkward admission by the prosecution was that Russo's letter to Garrison in which he made his first contact with the D.A. could not be found anywhere in the office nor produced at the trial.

Finally, Perry Russo himself, the indispensable witness but for whom there could be no "case" made against Clay Shaw, delivered the coup de grace to Garrison by recanting those parts of his earlier testimony which were crucial for the incrimination of Shaw as a conspirator. Russo said under cross-examination that neither Shaw nor Oswald had ever agreed in his hearing to kill President Kennedy; that the "conspiratorial conversation" in Ferrie's apartment could have been nothing more than a bull session; and that he was not a thousand percent sure of his identification of Shaw as the "Clem Bertrand" at the party. Defense witnesses testified subsequently that Russo had told them that he was uncertain of his identification of Shaw but was afraid of what Garrison would do to him if he retracted his story.

This, in essence, was the totality of the prosecution case placed before the jury by Garrison and almost instantly rejected decisively. Never presented at the trial, or even mentioned, were numerous items of "evidence" that Garrison had publicized repeatedly and grandiosely before the trial---the so-called "code" that he claimed linked Shaw with Oswald and Ruby; the allegations of Julia Mercer,

incriminating Ruby in the assassination of JFK and accusing the investigators who had interviewed her in Dallas after the shooting of having falsified and altered her statements; the assertions by a former FBI employee about a TWX alert warning that an assassination would be attempted in Dallas; [illegible] boasts that there was evidence of a meeting of Shaw, Oswald, and Ruby at Baton Rouge; etc., etc.

The not-guilty verdict was a humiliating anticlimax to almost 25 months of Garrison's posturings and escalating charges, against Shaw and others who suffered untold injury as a result of his loud-mouthings, though he had at no time any semblance of a genuine case.

But it was not Shaw alone who was on trial at New Orleans. All parties agree on this one thing at least—that Garrison used the trial to place the Warren Report (WR) in the dock. Indeed, there are some among his adherents who always believed that his charges against Shaw were nothing but a device by which the WR evidence could be tested for the first time in a court of law (and they condoned this means—the pillorying of an innocent man—to that necessary and desirable end).

The WR had been shown to be unreliable, defective, and deceptive by its authentic critics, long before Garrison decided to enter into the controversy as the self-appointed leader of the attack. He therefore had at his disposal a large body of documented criticism exposing the vulnerability of the WR and the untenability of its conclusions---a body of research, analysis, and data sufficient to produce as brilliant a success as Garrison's prosecution of Shaw had been a dismal failure and travesty.

In the event, Garrison was astonishingly inept and ineffective in challenging the WR in the forum of the Shaw trial. At one juncture, the prosecution actually pursued the WR argument that Oswald had carried a rifle into the Book Depository, while the defense vigorously disputed that claim and, in summation, said rightly that Garrison had utterly failed to prove this supposed "overt act" by Oswald in furtherance of an alleged conspiracy involving Shaw. The prosecution also failed to confront effectively the vulnerable testimony of such witnesses as Marina Oswald Porter, FBI photo expert Lyndal Shaneyfelt, and FBI ballistics expert Robert Frazier---a failure confounding to students of the WR.

But the State did succeed, almost in spite of itself, in casting serious doubt on the reconstruction of events by the Warren Commission. It made good use of the Zapruder film, which was screened numerous times over defense objections and which even the press acknowledged as showing that JFK was thrust backward by the bullet that supposedly came from behind him. Pathologist John Nichols, called by the State, bolstered the film with his stated opinion that the shot was compatible with a bullet from the front of the car. Nichols also disputed

the WR on the neck wound and the single-bullet theory indispensable to the finding of a lone assassin. Dallas assassination eyewitnesses also gave testimony that had clear impact. Richard Randolph Carr told the court that he had seen a man (not Oswald) in a fifth-floor window and later four men fleeing from the back of the Book Depository, and that the FBI had told him to keep his mouth shut about these observations. Frances and William Newman described their reaction to the shots, which they believed had come from the grassy knoll behind them, causing them to throw themselves to the ground and cover their child to protect him. Carolyn Walther testified that she had seen two men in a window of the Book Depository, one holding a rifle.

The testimony most damaging to the WR was elicited during cross-examination of a witness for the defense, Dr. Pierre Finck, one of the original three autopsy surgeons. From his replies, it was established that top military brass had been present at the autopsy; that an Army general had declared himself to be "in charge;" a Navy admiral had told the surgeons not to dissect the neck (to determine whether there was a bullet path--still a most controversial forensic issue); and that an admiral had told the doctors to describe a wound as "presumably of entry," although Finck claimed that he considered it then and still to be positively a wound of entry.

Very serious discrepancies were shown with respect to the original autopsy report and later reviews--including a 1968 panel report by four doctors who secretly examined the autopsy photos and X-rays--both at the New Orleans trial and at a hearing in Washington, D.C. before Federal District Judge Charles Halleck on Garrison's subpena of the autopsy photos and X-rays. After hearing brilliant testimony from Dr. Cyril H. Wecht, the eminent forensic pathologist from Pittsburgh, and anthropologist Robert Forman of Oshkosh, who has written an important monograph on the non-fatal wounds of JFK, Judge Halleck ruled that the materials should be made available, for examination by Dr. Wecht and then for use in New Orleans. Halleck's ruling is of the highest importance: it says, in effect, that he was satisfied that prima facie evidence had been set forth of shots from two or more directions, and is therefore a legal and judicial repudiation (or qualified repudiation) of the WR.

The Justice Department, which had opposed the release of the autopsy photos and X-rays to Wecht or Garrison, immediately served notice of intention to appeal Halleck's ruling; but before the procedure advanced further, Garrison rested the case for the prosecution and his office wired the Justice Department that the autopsy photos and X-rays were no longer needed.

What, then, are the net [illegible] extravaganza [illegible] long-awaited Shaw trial? [illegible] were shown to be [illegible] foundation or merit, and [illegible] part. Garrison was [illegible] as a thoroughly unprincipled [illegible] who had abused the powers of his office to the extreme [illegible] the WR was generally [illegible]—whether inadvertently [illegible] was compromised by being linked to the hollow, absurd [illegible] Shaw.

The press has been quick [illegible] presence at the Shaw trial, at the prosecution table, [illegible] major critics of the [illegible] these critics, pseudo-critics [illegible] Mort Sahl, had given [illegible] long-term aid and comfort in [illegible] contemptible campaign. Critics of the WR—including [illegible] have all along scorned and denounced Garrison, publicly and [illegible]—are therefore compromised and discredited in the eyes of many, [illegible] indiscriminately in Garrison's stigma and disgrace.

Only one critic of the WR, Edward Jay Epstein, is [illegible] hostile to Garrison, [illegible] his progressively greater [illegible] casts doubt on the authenticity of his [illegible] role where the Warren Commission [illegible] and raises questions about his moral and intellectual integ[illegible]

The repugnant spectacle of [illegible] Shaw, and the opportunism or gullibility of critics [illegible] of the WR, confirms me in the conviction I first expressed [illegible] a letter to The New York Review of Books: One is not [illegible] in gang warfare [illegible] New Orleans [illegible] and insult the very concept of justice.

Shaw trial – Witnesses

State

Edwin Lee McGee (barber)
Reeves Morgan
John Manchester
Henry Earle Palmer
Corrie Collins
Vernon Bundy
Francis Martello
Wm E Dunn, Sr.
Mrs Bobbie Dedon
Maggie Kemp
Mark Windstein
Frank Hayward
Jerrod Ray
Charles Steele Jr.
Charles Spiesel
Perry Russo
Andrew Sciambra
R.C. Roland
James Hardiman
Edward Fatter
Lewis Hopkins
Richard Jackson
Robert West
Wesley Frazier

~~Defense~~

Lyndal Shaneyfelt
William Bond
Roger Craig
Carolyn Walther
B.J. Martin
Mrs Phil Willis
James Simmons
Frances Newman
Mary Moorman
Regis Kennedy
Wm Newman
Herbert Orth
J M Nichols
R R Cox
Jesse Parker
[illegible]

(40)

Eugene Davis
Nicholas Tadin
Eliz McC Bailey
Peter Schuster

Defense witnesses

Marina O Porter

Robt Frazier

Lloyd J Cobb

Goldie N Moore

Col Pierre Finck

Dean Andrews

Charles Appel Jr

Jefferson Biddison

James Phelan

Lt E M O'Donnell

Clay Shaw

Arthur Q Davis