

## EDITORIAL

## An Addition to the Oath; Another Loophole Missed Again

An addition apparently was made to the oath one takes before taking the witness stand in any trial in this country. The addition is: "If the Attorney General will permit me." So the oath for a witness will now read: "I promise to tell the truth, the whole truth, and nothing but the truth, if the Attorney General will let me, so help me God."

Here is the way the addition came in the Clay Shaw trial in New Orleans: On Monday, February 17, 1969 ex-FBI agent Regis L. Kennedy testifying (accompanied by U.S. Attorney Harry Connick):

Q: (Asst. D-A James Alcock questioning) Prior to your interview with Andrews, were you personally engaged in an investigation of the assassination of President Kennedy?

A: I think to answer that question would go beyond my authority to say under privilege of the attorney general to let me appear here. Before I answer that I would have to confer with the U. S. Attorney.

Kennedy and Connick left the courtroom and conferred in the judge's chambers. When they returned Kennedy said he had been directed to say that to answer the question would go beyond the privilege under which he was appearing.

Before he could answer, Kennedy said, the U. S. Attorney would have to contact the Attorney General to determine if the question could be answered. Kennedy said Connick would be glad to contact the Attorney General if necessary.

Alcock then said to Judge Haggerty: "Agent Kennedy knows well that the president was killed on Nov. 22. This interview took place on Nov. 25. My next question was, was he engaged in the investigation from the 22nd and thereafter."

At this point, Shaw's chief attorney, Dymond, addressing the court, said that he thought the best thing to do would be for Kennedy to call the Justice Department to find out whether he could answer.

Alcock said he did not object, so the Court took a five-minute recess.

Judge Haggerty determined that the legal question should be outside the presence of the jury and he directed the deputy sheriffs to remove jurors from the room.

The judge then asked, "What is the legal status of this at this moment?"

Alcock replied, "What we are attempting to determine is whether between November 22 and Nov. 25 agent Kennedy was engaged in the investigation of President Kennedy's assassination, including the Nov. 25 interview with Andrews. Additionally, the state would like to know if

his search for Clay Bertrand was part of that general investigation. This is highly relevant to the case in our opinion and we might state that Agent Kennedy testified last summer in another case in this court and at that time did respond to that question or one similarly phrased."

Judge Haggerty then asked Connick the position of the United States Attorney's office in this matter.

Connick then replied, "Mr. Kennedy has the authority to testify as to the interview with Dean Andrews, but beyond that he has no authority to answer any other questions. I would be glad to contact the Attorney General and ascertain whether Mr. Kennedy has authority to go into other specific questions."

At this time Connick asked to confer with Kennedy about his specific answers in this previous case.

Connick then replied, "Mr. Kennedy has no recollection of his specific answers and, in the light of this, he should not be allowed to testify."

Alcock told the court that the transcript of the particular case involving Kennedy's testimony has never been drawn up and he said he did request a transcript of Kennedy's particular testimony although he has never received it.

The judge replied, "I understand the legal questions involved and I think we had best have a conference in my chambers and, therefore, I am calling a five-minute recess."

The jury filed back into the courtroom at 11:30 a.m. after a 5-minute recess. Reporters and spectators scurried back to their places.

Connick conferred briefly with witness Kennedy.

Alcock resumed questioning of the witness indicating he had a couple of written questions that had been cleared by the U. S. Attorney General.

Q: PRIOR TO YOUR INTERVIEW WITH DEAN ANDREWS were you engaged in an investigation of President Kennedy's assassination?

A: Yes, I was.

Q: WERE YOU SEEKING CLAY BERTRAND?

A: YES, I WAS.

Alcock then turned over the witness for cross examination.

We feel sure the Attorney General would not have permitted the question, but we strongly feel Assistant District Attorney James Alcock should have asked the question: "Then just how did you learn about Clay Bertrand?"

We are left wondering who instructed FBI agent Regis L. Kennedy to seek Clay Bertrand, and how his name ever got involved in the case at such an early hour before Dean Andrews mentioned the name on November 25, 1963.