

## The Trial of Clay Shaw

The trouble with the Garrison investigation, from the point of view of writing a book about it, a journalist once told me, is that it turns out to be a "non-story", at least from the journalists' point of view. Herein lay ~~was~~ the explanation of the strange atmosphere which overlay the Clay Shaw trial. I don't think any of the reporters from any of the major newspapers or networks believed for one minute that Shaw was guilty, although one or two of the underground press representatives may have thought so. It was the jury, rather than Clay Shaw, which was uppermost in one's mind. As Shaw walked in and out during recesses one looked at him and asked oneself what it was like to be in his position. One looked at the jury and asked, "Do they realise what has gone on here?"

Judge Haggerty's courtroom is at one end of the long marble corridor of the second floor of the Criminal Court Building. At the far end of the corridor, almost a hundred yards away, are the massive doors to the District Attorney's office. The squad of prosecuting attorneys--generally Alcock, Sciambra and Oser, sometimes with a fourth--would emerge ~~ix~~ as a compact squad each morning a few minutes before the session was due to start, and walk down the length of the corridor at a brisk pace. They always wore smart conservative suits and carried solid, crush-proof brief cases. Reporters almost had to run to keep ~~xxxx~~ up with them, but all they ever got was a loud and clear "no comment" from Jim Alcock. After a few days they gave up trying.

At the far end of the corridor, outside the courtroom door, white muslin curtains had been hung over the large windows at the end of the building, to prevent anyone from taking a shot at Shaw, or anyone else, from an outside building. Spectators filed in past guards who inspected credentials (which anyone could obtain from the sheriff's office,) and frisked for concealed weapons. Nearly all the independent spectators were women, some of whom came every day and were, in fact, more constant in their attendance than some of the reporters. At the beginning of the trial, and again at certain key moments throughout it, there would be a heavy crush of people behind the roped-off area in front of the courtroom door, waiting their turn to get in. Reporters were checked in first, by Nina Sulzer, an assistant to Sheriff Heyd. Others, unidentified, evidently knew someone because they would just walk through with a nod at the deputies on the door.

Inside, the courtroom turned out to be smaller than you expected. The ceiling is high, and the room spacious, but it is not the arena which might seem appropriate to the occasion. Behind the bar, the partition separating the officers of court from the spectators, there is only room for seven rows of benches, arranged on either side of a central aisle. On an important day, as when Russo testified or during the opening statement by Garrison, the whole of the left hand side was taken up by reporters. The jury sat on the left of the courtroom, facing an equivalent set of seats occupied by privileged spectators, most of whom seemed to be wives or relations of ~~xxxx~~ the defense lawyers. They all seemed to be Shaw people. For some reason, after attending the trial for a few days, one seemed to be able to determine the allegiance of just about everyone in the courtroom. Nearly all the reporters were on Shaw's side, as the most casual eavesdropping made clear. If Shaw's fate had been determined from a show of hands from the spectators, I think ~~xxx~~ Shaw would have won a clear acquittal. There were a number of Garrison supporters there, however, and occasionally one of the assistant district attorneys' wives would and would be ushered through to a seat before the bar close to the prosecution table. I noticed that Mrs. Garrison, on the other hand, in her infrequent appearances, would sit up on the right with the pro-Shaw group.

Judge Edward Haggerty swept into the courtroom in his black robes every morning for the 9 o'clock session, generally more or less behind schedule.

"Order in court!" A clerk yelled. "Oyea, oyea,....evryone keep their seats." Haggerty would climb up to his seat, a vantage point from which he looked down on everyone else, and the session was underway. The defense table was right in front of him, with Irvin Dymond on one end, opposite the witness stand, Ed Wegmann next to him, and then Clay Shaw. Sometimes on Shaw's right would be one or other of his remaining lawyers, William Wegmann or Salvatore Panzeca.

The first order of business was the selection of the jury—a long-drawn out process which took two weeks. Twelve jurors had to be picked, and then two alternates, in case anyone fell sick. Each side was allowed twelve peremptory challenges of otherwise qualified jurors, ie the juror could be dismissed without giving any cause. Most jurors, however, were disqualified long before the time came to exercise this challenge. A potential juror would be excused, for instance, if it emerged that he would not be paid during the time of his jury service, or if he said that being removed from his family for a prolonged period of a month or two would cause "some undue hardship." This meant that, in fact, only those who wanted to be on the jury need be so, since each potential juror went through a long interrogation by both sides during which there were many opportunities for him to be excused by the judge. No one was ever able to determine whether the fact that the jury in the Clay Shaw trial was composed of men who wanted to be on that jury ~~would~~ would work to the advantage of Shaw or the prosecution.

As each potential juror took the witness stand, Clay Shaw would lean over to his left (he could barely see the witness stand from where he sat,) and scrutinise the man's face. Sometimes he would hand a note over to one of his lawyers. It emerged that Jim Alcock, who handled nearly all of the questioning for the state, was anxious to find out if the juror had been keeping up on the stories about the investigation in the papers and the national press—particularly the latter. Dymond was looking for evidence that the man had strong feelings about the Warren Report, and already believed that there had been a conspiracy, this possibly being prejudiced against Shaw.

One point emerged very clearly, and the newsmen present didn't fail to notice it or comment on it: the state was using its preremptory challenges to excuse jurors, for no reason other than the fact that they appeared to be intelligent. Dymond, on the other hand, looked as though he was trying to get intelligent men. Once or twice the state's use of a challenge for this apparent motive was ~~very~~ blatant, and during a recess later reporters would comment on it, and say how embarrassing it was. I think if any of the journalists present had had any confidence in the case against Shaw up till this point, they must have soon lost it.

Recesses were frequent and lengthy during the jury selection, as they were throughout the trial. Shaw would stroll around the courtroom and outside it, exchanging greetings with friends. He looked surprisingly calm about the whole thing, and one got the impression that he had many friends in the courtroom. Deputy sheriff's treated him respectfully, and he had one full-time body guard who followed Shaw around everywhere. I talked to him on one occasion—a heavy set man in his later forties. I said I thought it was not likely there would be a repeat of the Ruby-Oswald scene. For years everyone has been talking about g "getting it into the courtroom where it belongs," and curiosity, I said, would be likely to over-ride any other emotion at this stage. The guard agreed that an attempt on Shaw's life was unlikely, but then, as he said, "you never can tell if there isn't going to be some nut with a gun..."

But to talk of guards and assassination attempts ~~g~~ casts the trial in the wrong light. It was not so much a drama as play-acting. A criminal proceeding conducted according to the rules, but no criminal, and possibly even no crime—the crime of conspiracy. Most people present seemed to sense this, I think.

Certainly Shaw knew it, his lawyers knew it; Garrison's men knew it (Alcock certainly did, Sciambra probably tried not to think about it.) The judge knew it, or so I was told. One evening I was having drinks with a group of newsmen after the day's proceedings. One, a responsible and respected reporter, said he had just interviewed the judge, and talked to him "off-the-record." There was a short silence, and then he said: "He knows Shaw is innocent."

"Knows?" someone asked.

"Knows," the reporter replied, with meaningful emphasis.

Nearly everyone knew it, but did the jury? Were they going to be able to figure out the story? That question was the predominant undercurrent to the trial.

Given this orientation, it was difficult to take the trial particularly seriously. An English journalist who was only in New Orleans for two days caught this feeling in his brief courtroom attendance. At first he paid attention to the testimony, but soon his mind started to wander and instead he became more interested in the personalities involved, staring round the courtroom, occasionally asking me to identify people. During a recess Shaw stood up, stretched, turned round and waved at a few friends. All very relaxed and easy going. My friend took note and then started to ask me, who is this guy Garrison anyway? And how did he get onto Clay Shaw, and what's Shaw like? At the end of the recess I asked him what his impression was of the trial.

"It looks like he's giving a party or something," my friend said.

"Who?"

"Clay Shaw."

The jury selection went on and on, finally giving rise to the speculation that Haggerty was determined to prolong the case as much as possible, and perhaps establish some records in the process. Occasionally he used tactics which definitely suggested this. One day I made the following notes, (Wed. Jan 29, 1969,): "The eleventh juror was picked today. Both state and defense have used up eleven challenges. Judge Haggerty has, on the whole, been reasonably fair so far, leaning perhaps slightly towards the state, but less so than one might have feared. He seems to react with an almost instinctive attitude of belligerence when Dymond makes an objection, whereas he treats Alcock court-  
eously. On such occasions he apparently rules according to this same gut reaction—"You're right, I agree with you Mr. Alcock,"—rather than by recourse to the law books. Then, apparently aware of this, the next time an objection arises he is liable to side with Dymond, again apparently without reference to the legal question being debated. His notion of judicial impartiality seems to be to give both sides a bit of help from time to time. However, there was one uncalled-for piece of chicanery this evening, shortly before the session ended at 6 pm. A potential juror was asked by Judge Haggerty:

"Do you have any fixed opinion as to the guilt or innocence of Clay Shaw?"

(If he says he has a fixed opinion, he is disqualified—an easy escape route for anyone who does not want to serve on the jury.)

"Not a fixed opinion, no."

"If you did have a fixed opinion, would it take evidence to remove that fixed opinion from your mind?"

"Yes, it would."

"You're excused."

Haggerty used this meaningless hypothetical question—"If you did have a fixed opinion..."—several times to disqualify potential jurors. Whichever way they answered it they were ruled out, and thus the judge had hit on a handy method of eliminating anyone he didn't want from a position on the jury. In this instance, I noted, the potential juror looked to be an intelligent man, fairly young and I think single, and he struck me as the kind of man Shaw would like to have on the jury.

By Wednesday, March 6 the twelve jurymen and two alternates had been selected.

Judge Haggerty paraded them around the pool of the Fountainbleau Motel to let the press get pictures of them, before they were sequestered for the duration of the trial. Haggerty made a remark about having gone through over 1200 potential jurors, and said this was some kind of a record.

The next day, February 6th, the trial started in earnest. The session was due to start at 10 am, and just before that time Garrison came strolling down the corridor from the DA's office, to deliver the opening statement. He was flanked by Louis Ivon and Steve Bordelon, (his driver and bodyguard.) Garrison looked fit and relaxed, much better than when I saw him in his office two weeks earlier. This was his first serious appearance of the trial, (he had looked in once or twice during the jury selection.) I looked at him as he walked into the courtroom, brief case under his arm, and even though he looked so much in command of everything, for some reason I could not help feeling sorry for him. He had brought the whole thing on himself, he should never have arrested Clay Shaw, but even so, this probably wasn't what he had bargained for. Almost certainly he had been hoping, deep down inside, that the Supreme Court would stop the case from coming to trial. This must have been a tough moment for Garrison. A moment later Shaw came by with his guard, head up high, with a stiff ~~march~~ military bearing, exhaling smoke with a sigh. He seemed resigned and almost cheerful--no trace of bitterness. "That's the way life is," he seemed to be saying to himself. "Occasionally you have to go through this business of going to trial for conspiracy to assassinate President Kennedy...it happens to the best of us."

One thought this throughout the trial. Shaw was the one on trial, vulnerable, and threatened with conviction of a crime which was repugnant to the nation, but it was Garrison, one also felt, who was really vulnerable, who was really fighting for his life. Shaw might lose on the short term, but ultimately he would come through all right, one sensed. It was Garrison who was heading for disaster, whatever the verdict.

Garrison, as usual, performed well in public. He read the opening statement in a relaxed and impressive manner. Once again he gave the impression that he was much more concerned with the case against the Warren Report than with the case against Shaw. "The evidence will show that in the month of September, 1963, the defendant, Clay Shaw, David Ferrie and Lee Harvey Oswald participated in a meeting in which plans for the murder of John F. Kennedy were discussed and refined..." was read out with no particular emphasis. It wasn't until Garrison reached this sentence that he came into his own: "It is the position of the State of Louisiana that, regardless of the power which might bring about the execution of a President of the United States, whether it be initiated by a small group or the HIGHEST POSSIBLE FORCE, neither the planning of his murder nor any part of it, will be regarded in Louisiana as being above the law."

As soon as Garrison got to the part where he said "the State will establish that on Nov. 22, 1963, Pres. John ~~and~~ F. Kennedy and Gov. John Connally...were wounded as a result of gunshots fired by different guns at different locations," Irvin Dymond jumped to his feet with an objection. Hitherto, Judge Haggerty had evaded the issue of whether he was going to admit this testimony into evidence, but now he made clear that he was going to allow it. Jim Alcock got up and argued the point with Dymond, while Garrison sat back and listened. Alcock's point was that the state only had to prove its case, and there was nothing to stop it from "overproving" it. The judge came down on Alcock's side and thus admitted evidence relating to Dealey Plaza, which, while it would bear no relation to Clay Shaw, would nevertheless be prejudicial to him, in that it would turn the courtroom into a forum for presenting graphic and sometimes gruesome evidence of the murder of President Kennedy. After reading the statement Garrison strolled out of the courtroom with Alcock and Oser. Crowds pressed up against Garrison, some congratulating him on his performance.

Dymond then ad-libbed a much shorter opening statement on behalf of Shaw. In it he concentrated on Perry Russo, whom he described as a "a liar, a notoriety-seeking liar." He outlined some of the contradictions in Russo's testimony which he said the defense would go into during the trial--the Sciambra memorandum, Jim Phelan's testimony, Russo's failure to mention Clay Shaw to newsmen before he had been hypnotised, etc.

The state opened its case with the group of witnesses from Clinton, La., who testified that Oswald, Shaw and Ferrie were seen together in Clinton in the late summer of 1963. The gist of their testimony was that during a CORE voter registration drive in Clinton a black cadillac was parked outside the voter registrar's office. Oswald Shaw and Ferrie were seen in the car, and ~~Henry Earl Palmer~~, registrar of voters, said that Oswald stood in line and attempted to register to vote. He said that he told the FBI about his shortly after the assassination.

*Sent handwritten note to Bellfield 8/22/69*

It will be recalled that the DA's office was never able to get verification from the FBI that Palmer had in fact contacted them. Nor would the FBI say that Palmer had not contacted them. There is no record of any FBI reports of an interview with Palmer on record in the National Archives. There are many other problems in connection with the Clinton witnesses. In the first place, none of them contacted the DA's office until May, 1967. (The earliest memos in the district attorney's files are dated May 29, 1967. On that date ~~James~~ and Henry Earl Palmer were interviewed by Andrew Sciambra.) Thus the Clinton witnesses did not come forward until 6 weeks after the widely publicized Preliminary Hearing at which Perry Russo testified. The Clinton witnesses very conveniently put the same Oswald, Shaw and Ferrie that Russo had testified about together in a car in Clinton.

Despite the fact that this group of witnesses had what may have been significant information about the alleged assassin of President Kennedy, none of them (except Palmer) even claimed to have told anyone about it until after the Garrison investigation was published--a problem which ipso facto would arise with any new witness Garrison may have come up with who said they saw Oswald in New Orleans or vicinity. John Manchester, the town marshall of Clinton who was one of Garrison's witnesses was asked if he had contacted the FBI. He said he had not. "If they wanted it, they should have come for it."

None of these witnesses claim to have seen the occupants of the car for more than a few minutes. By the time they were "developed" by Garrison's staff as witnesses, in the summer and fall of 1967, four years had elapsed since the time they were testifying about. It is not credible ~~is~~ that anyone can think back four years to a moment when you noticed three people sitting in a parked car, and claim to be able to identify them with any certainty. The alleged event in Clinton was only two or three months before the assassination, and it is possible that after that lapse of time, memories might not be quite so hazy, but even there, there is no evidence that any of them attempted to report the matter to the authorities.

The fact is, the Clinton witnesses, although perhaps the strongest part of Garrison's case, did not merit any credence. I spoke to Hugh Aynesworth, the reporter for Newsweek, at one point later on in the trial, and he said he had attempted to investigate the Clinton witnesses shortly before the trial began. He said that he travelled to Clinton, and arrived at the conclusion that the witnesses had been "put together" by John Manchester, the town marshal, and Lieut. Fruge, a state policeman there. When he went to talk to Manchester he did not receive a warm welcome. He was threatened by Manchester, and advised to leave the area, "otherwise," Manchester said, "I'll cut you a new ass-hole."

Although there was always a n air of mystery and secrecy surrounding the Clinton witnesses while I was in the DA's office, my observations ~~are~~ are in agreement with Aynesworth's. The Clinton witnesses, when they came to New Orleans at the opening of the trial, were shepherded around by Lt. Fruge. During the jury

selection, Fruge sat on a bench outside the courtroom with several of the Clinton witnesses. They watched Clay Shaw coming and going during recesses. The purpose of this, of course, was to make a "positive identification" of Shaw (as being the man in the Cadillac) before testifying.

Moreover, as has been recounted ~~in~~ in the diary, members of the DA's staff working on the case were themselves afraid that the Clinton episode would turn out to be nothing more than a case of mistaken identity—specifically that Guy Banister was there and not Clay Shaw. They were afraid that the defense would produce documentary evidence of this during the trial. So as not to draw attention to Guy Banister, the DA's office went so far as to leave out of the trial the one interesting piece of evidence they had about Lee Harvey Oswald—the pamphlet which indicated that he had some connection with 544 Camp St. This was the address of Banister's office, and the DA's staff reasoned that if this was introduced into evidence the defense might welcome it and then proceed to develop the whole Clay Shaw case into one of mistaken identity for Banister. This would have been quite easy to do, in view of Banister's known connections with David Ferrie. Thus the best evidence Garrison had in support of his contention that there ~~was~~ had been a conspiracy based in New Orleans was deliberately kept out of the courtroom by Garrison himself.

In any event, by using these witnesses, Garrison was able to make a presentable showing at the beginning of his case. Despite the inherent implausibility of their stories, the Clinton witnesses stood up quite well under cross-examination. As Alcock later said, "they made good witnesses." The defense team was afraid that the Clinton witnesses would be brought out at the very end of the trial as rebuttal witnesses. They feared that this tactic might have been used to devastating effect. The trouble was, from Garrison's point of view, however, whenever these witnesses might have been used, it left him with precious little else.

Perhaps the most pertinent assessment of the Clinton witnesses was made by a lawyer I had become acquainted with after seeing him many times in the courthouse over the past 18 months. He asked me to outline what had happened so far in the Shaw trial, and I told him about the Clinton witnesses, giving a brief summary of their combined testimony. As he listened he started to smile broadly.

"Country boys, are they?" He asked.

I nodded.

As he turned to go he said, "Why don't you get me their names so I can use them some time."

On the following day the state introduced four witnesses who testified about Oswald's leafleting activities in New Orleans. Their combined testimony amounted to nothing more than a smoke screen, as none had anything to say about Clay Shaw, David Ferrie, Clay Bertrand, or a conspiracy involving Oswald. Charles Steele, the last of the four, had passed out leaflets with Oswald in front of the old International Trade Mart. As far as is known, he is the only witness who definitely remembers seeing the unidentified man also passing out leaflets at that time. He said he remembered seeing him earlier in the unemployment office on Canal St, which is where he, Steele, had been hired by Oswald, strongly suggesting that the same was true of the unidentified man.

The next three witnesses constituted the heart of Garrison's case: Charles Spiesel, Vernon Bundy and Perry Russo. The testimony of Russo and Spiesel was crucial, since they were the only two witnesses who claimed that they had overheard Shaw discussing an assassination attempt.

Bundy was in Parish Prison serving a sentence for a narcotics conviction

when he contacted the DA's office and claimed to have information relevant to Garrison's investigation. This was during the Preliminary Hearing in March, 1967. Bundy testified then, and again at the trial, that he had been sitting on the seawall of Lake Ponchartrain in late June, 1963, preparing to ~~shoot~~ "shoot" heroin. He noticed a black limousine approaching behind him on the other side of the street. "A gentleman got out of the car and walked behind me and passed 30 or 40' from me. He was there for a while. I said to myself I didn't know if this was a narcotics officer or not...From what is known as the white section of ~~the~~ Ponchartrain Beach, another gentleman approached. He came up to the gentleman who was standing there, and they talked for what seemed like ten hours, but it wasn't for more than one or two moments." Bundy then identified the two men as Shaw and Oswald. (Shaw, supposedly, was the man who got out of the car.)

"They talked for a while," Bundy continued, "and the only conversation that I overheard was, 'What am I going to tell her?' The gentleman here (pointing to Shaw) gave to Oswald what looked to me to be money. They talked for two or three seconds more, then they left." Bundy then testified that he wrapped up his heroin outfit in one of the papers which 'Oswald' had dropped—a sheet of paper which he described as being "on the same order as" one of Oswald's Fair Play For Cuba leaflets which Jim Alcock showed him.

Bundy's testimony can not be taken seriously, as evidently everyone in the DA's office felt in March, 1967, when they urged Garrison not to use him as a witness. Some of the objections which apply to the Clinton witnesses also apply to Bundy. How could he remember the faces after nearly four years when he had only seen them for a few minutes? If he remembered seeing Oswald, why didn't he tell the FBI about it. Why did he wait until he was in jail on a narcotics charge? Irvin Dymond also brought out the curious fact that, according to Bundy's testimony, these two men should have met and transacted money ~~right~~ within earshot of Bundy, when there was, according to Bundy's own testimony, over a mile of ~~empty~~ deserted seawall stretching on either side of him. And, as Dymond argued, it would have been more sensible for Bundy to have ~~shown~~ his taken his heroin at home.

In addition, John Cancler, a convicted burglar also in Parish Prison, told NBC that he had ~~shown~~ had a conversation with Bundy in prison, and that Bundy had said, "I don't know anything about the case," but was just testifying for personal reasons, ie to get out of jail, if possible. Miguel Torres, another convict, had also said that Bundy had told him that he couldn't decide whether to "put" Shaw on the Lake Front, or on Esplanade Avenue. Eventually he chose the Lake Front. Bundy testified at the trial that he could not recall either of these conversations.

Shortly after the trial Garrison defended Bundy as being "a totally honest man." His timing was not very good, however. The next day Bundy was arrested again, this time on a shoplifting charge.

Bundy had testified at the Preliminary Hearing, and therefore his testimony did not come as a surprise to anyone (except to those who didn't see how Garrison could use him again,) but the next witness, Charles Spiesel, had not been mentioned at all in connection with the Garrison investigation. When Jim Alcock called out the name of the next witness, and a few seconds later a dapper, balding little man walked quietly up to the witness stand, very few people in the courtroom knew who he was or anything about him. Charles Spiesel, a tax accountant from New York had called Garrison long distance around July, 1967, and told him that he had been in New Orleans in the Summer of 1963. While in New Orleans, he said, he had met David Ferrie at a bar on Bourbon Street, and Ferrie had then taken him to a party in an apartment building where the host had turned out to be Clay Shaw. Later in the evening, Shaw and Ferrie discussed the assassination of the President, according to Spiesel.

Spiesel said that a group at the party gathered around a large oval table in the apartment. The conversation turned to President Kennedy. "Just about everybody began to criticize him," Spiesel testified. "Then someone said that 'somebody ought to kill the son of a bitch.' Those were his exact words." Spiesel noted that throughout Clay Shaw seemed to be "amused" by the entire conversation. Then someone else, bearded and with dirty blond hair, said, "Yes, I'd like to do it, but how do we do it?", Spiesel testified. At one point, the witness related, Shaw turned to Ferrie and said, "Do you really think it could be done?" There was also talk of the possibility of flying the assassin out from the scene of the crime in some way.

At the end of Spiesel's testimony there was a thoughtful silence in the court. Here was a witness who provided important corroboration of Russo's earlier testimony—and moreover a man, to judge from his appearance and job in New York, whose testimony seemed reliable. He did not report seeing Oswald at the party which therefore accounted for his not having reported this conversation before. Shaw's lawyers seemed shocked. Irvin Dymond asked for a brief recess before continuing with the cross examination of Spiesel.

I walked out of the courtroom into the long corridor with everyone else. Jim Alcock walked out past me, puffing on a cigar. He was looking down at the ground with a worried and thoughtful expression on his face. I knew this was the turning point of the trial. The state had presented its major witnesses apart from Russo by this time, and so far nothing had gone seriously awry. When I came outside Martin Waldron saw me and said, "Didn't he file a million dollar suit against the city of New York?" I told him I didn't know about that. "I believe he did," Waldron said. I spotted Jim Kirkwood further down the corridor. He had written an article for Esquire about Shaw and was now writing a book about the trial. "It's getting hairy, isn't it," he said. He looked worried. I told him that this was the turning point of the trial.

Of course, I knew that Spiesel had a background which, if brought out in court, would completely discredit him as a witness. I also knew that Alcock knew it, because Alcock himself had told me about it. I also knew that the defense had known that Spiesel was a potential witness since last August. What they had dug up I didn't know, but evidently they had something about a suit in New York. Furthermore, I knew that the DA's office knew that Shaw's lawyers were most probably well prepared for Spiesel as a witness. This of course gave even greater grounds for the worried look on Alcock's face. This being so, it is surprising that the state decided to put Spiesel on the stand. How on earth did they think they could get away with it?

As it happened, they nearly did. A preliminary check on Spiesel by Shaw's lawyers several months earlier had resulted in the finding that Spiesel was a paranoid personality, and the conclusion that he therefore would not really be a witness. Then, much later, after the trial had actually started, they found out that he really was going to testify. Apparently they received a call from a lawyer in Denham Springs, La., to this effect, and also, I heard, from Spiesel's brother. In any event, they then started to investigate Spiesel in earnest. The results of this investigation were flown down from New York, arriving in New Orleans less than 24 hours before Spiesel testified. Shaw's lawyers did not even have the Spiesel file with them when he took the stand that afternoon. Sal Panzeca was hurriedly dispatched to fetch it, which was why Dymond asked for the recess.

I later (after the trial) asked Jim Alcock why they put Spiesel on the witness stand, knowing that he would most likely be severely discredited. His answer indicated that the decision had been a coldly calculated gamble: "Well, they say they only ~~just~~ got that information on him just in time..."

When Irvin Dymond started his cross examination of Charles Spiesel, he seemed to be floundering for a way to discredit Spiesel's story. He had the



witness estimate the size of the room where the party allegedly was held. He made Spiesel pace out the measurements. He asked Judge Haggerty for permission to take the witness to the building where this party had been held, and so on. Then Dymond abruptly asked: "Are you the same Charles Spiesel who filed a \$16 million law suit against the city of New York?" Spiesel admitted that he was. After that the cross examination became embarrassing to listen to.

"Isn't it a fact that you just recently were subjected to a Communist conspiracy, people following you, your telephone tapped?" Dymond asked. "Not recently," Spiesel replied. He also explained that he had been hypnotised against his will 50 or 60 times. How did he know he had been hypnotised on these occasions? "When someone tries to get your attention—catch your eye. That's a clue right off." The lawsuit Spiesel had filed charged that he had been forced out of business and kept "from having normal sex relations" through "hypnosis and psychological warfare." It was embarrassing. Martin Waldron of the New York Times was sitting in a bench in front of me, shaking with silent laughter; he shook his head, his eyes watering. Then he turned to his neighbour and said, "Poor Garrison."

At the end of Spiesel's testimony, Dymond still requested that the court troop out to Esplanade Avenue, so that Spiesel might try to find the apartment in question—an extraordinary move, I thought. It served to throw the whole of Spiesel's testimony back into the realm of possibility, and thus threatened to nullify his cross-examination. At any rate, Spiesel was unable to locate the apartment which he recalled.

Almost nightly gatherings of journalists covering the trial were held at Martin Waldron's French Quarter apartment. One evening, the week after Spiesel had testified, he invited me to come over. Most of the conversation was of the light-hearted, almost frivolous variety which seems to be de rigueur among off-duty journalists, but at one point there was an interesting exchange between Waldron himself and Jerry Cohen, who was covering the trial for the Los Angeles Times. They were arguing about the correct way to write the lead sentence of ~~THE~~ story about Spiesel's testimony. Cohen was criticising Waldron because the way it had appeared in the NY Times, the first sentence described the essence of Spiesel's testimony about the party. Cohen's first sentence had alluded to Spiesel's testimony about his history of persecution. They argued it back and forth, Cohen saying that Spiesel's background meant that his "plot" testimony was worthless, Waldron saying that his background was only relevant in the light of his testimony about a plot. A nice point, and no doubt one which journalists might argue about at length. What is certain, however, is that Spiesel's testimony about his alleged persecution belonged higher in the story than the twenty eighth paragraph, on an inside page, which is where the Times Picayune put it. (Reporters from the local papers, incidentally, did not attend Waldron's gatherings.) Many pro-Garrison observers of the trial, including Jim Alcock, were later to complain about the coverage the trial got in the papers, even the New Orleans papers. In truth, the coverage by the Picayune and the States\*Item, while being voluminous, tended to help Garrison because the reporting was so confusing that no doubt many people didn't get much further than the headlines. The headline on the day Spiesel testified read:

SURPRISE WITNESS SAYS FERRIE  
INTRODUCED HIM TO CLAY SHAW

On Monday, February 10, 1969, Perry Raymond Russo took the witness stand. He was the second of only two witnesses Garrison introduced at the trial whose testimony might have led to the conviction of Clay Shaw. The other was Charles Spiesel. Russo's Preliminary Hearing testimony against Shaw—almost two years earlier—has been the subject of considerable comment in this book, and it is not, therefore necessary to elaborate at any length on Russo's two-day testimony.

He repeated essentially the same story he had told at the Preliminary Hearing, a story of overhearing an assassination attempt discussed by three men in David Ferrie's apartment in September 1963. The three men were, according to Russo, were David Ferrie, Clay Shaw and one 'Leon' Oswald. Under cross examination by Dymond, one or two new points emerged. Russo, answering questions in a thick, dry voice (it sounded as though he wasn't producing any saliva,) conceded that the 'plot' which he had allegedly overheard had in fact been nothing more than a "bull session", and at another point Russo said, "I never said anything about a conspiracy. I didn't sit in on any conspiracy." In addition to these damaging admissions, Dymond also elicited from Russo an admission that he did not hear either Shaw or "Oswald" agree to kill the President. Thus no legal conspiracy had been established by the state.

In fact, however, these admissions, damaging as they were to the state's case, in some ways enhanced the plausibility of Russo's testimony. He succeeded in creating the impression that he was an honest guy telling it the way it was, even if it did hurt Garrison a bit. A kind of cards on the table effect. And this in turn had the subtle effect of persuading many people that Shaw really was there, talking about killing the President with Ferrie and Oswald, even if it was only a bull session. In reality, of course, Shaw wasn't there at all, any more than Oswald was.

There seems to be little doubt that Russo's testimony did create this effect—created it in the minds of at least some of the most important people in the courtroom: the jury. This was told me by Jim Alcock after the trial, who had heard it from Mark Lane. Lane supposedly interviewed all the jurors after the trial, and the results of these interviews, it was announced, would be published in the Los Angeles Free Press. Lane's findings never were published, however. Jim Kirkwood later told me that he had interviewed some jurors who said that they had never spoken to Mark Lane, so I don't know how much truth there is to Lane's remarks to Alcock. In any event, what Alcock told me was that apparently the jury was satisfied that Shaw had indeed been at the meeting with Ferrie and Oswald and had discussed assassinating the President. They found Shaw not guilty, however, on the strength of Russo's claim that the whole thing had been a "bull session". This implies a kind of moral guilt but legal innocence on Shaw's part, which, if that were to be the verdict of posterity, would be extremely unfair to Shaw. The point is he wasn't there at all.

Apart from the many arguments which militate towards this conclusion, and I am thinking of such points as Andrew Sciambra's failure to include anything about the 'plot' in his initial memorandum of his interview with Russo, and the fact that Russo was first given sodium pentothal and then hypnotised before his story was consolidated, a new point emerged in the cross examination of Garrison's star witness. In June, 1967, an attempt was made by ~~Sergeant~~ the New Orleans Police Department to ~~Russo~~ give Russo a lie detector test. The results were extremely erratic. With the machine disconnected, the polygraph operator, Sgt. Edward O'Donnell then asked Russo if Shaw had been at the party or not. Russo then admitted that he was unable to say whether he had been or not—despite the fact that the only reason Shaw was now on trial was that Russo had positively stated that Shaw had been there when he testified at the Preliminary Hearing. (The Times Picayune got around to reporting this in the tenth paragraph of a story blandly headlined: DEFENSE, STATE FINISH QUESTIONING RUSSO).

It was, in fact, the most important point to emerge in the cross examination of Russo, as members of the DA's office themselves conceded. Although by this time I was no longer a member of the DA's staff, I happened to be in the DA's office when Russo's testimony about Sgt O'Donnell was being discussed. It came about in this way.

The day before, as I was walking down the corridor of the criminal court

building, Louis Ivon came up to me and said he had something he wanted to talk to me about. He advised me that he had heard that the defense was about to put some of the Clinton witnesses back on the stand for questioning. In order for them to do this it would be necessary for them to show "due diligence", a legal term indicating that they had in the interim done research which would demonstrate the necessity for putting them back on the stand. If this happened, Ivon warned me, the state would respond by putting Sal Panzeca on the stand and bringing out the fact that the defense had known about the Clinton witnesses for months. Thus, Ivon said, my position would be forced out into the open and the defense would undoubtedly retaliate by calling me as a defense witness later in the trial. As the DA's office did not want this to happen, Ivon told me the best thing for me to do would be to leave town.

I said that I'd like to talk to Jim Alcock about it. "OK," said Ivon. Therefore, the next day I went into the DA's office after the courtroom proceedings were over. Alcock had just returned from the courtroom, at the end of the cross examination of Russo. Alcock knew what I was there to talk to him about, but several assistant DA's kept coming and going—Sciambra, Alford, Oser—talking animatedly about the day's events. I therefore just sat there, waiting to discuss Ivon's proposal with Alcock. Alcock, Sciambra, etc., all seemed to be agreed that Russo "hadn't gone too badly," "could have been worse," etc. "But boy, that O'Donnell really hurt us," Alcock said.

"Yeah, O'Donnell hurt us but Jim, it could have been a lot worse," someone said.

"I'll tell you the truth, I don't think Russo looked too bad," said Al Oser, (who was later appointed to a judgeship.)

Other points were discussed, the next day's witness (Chuck Rolland from the Winterland Skating Rink in Houston,) where he was staying, etc. Alcock said he was tired but would go and see Rolland at the Fountainbleau before going home. I was slightly non-plussed that they would discuss all this in front of me. In the end I never did get to talk to Alcock about Ivon's hint that I leave town. As I was leaving the office, Louis Ivon came up to me again.

"When are you leaving town, Tom?" He said. (Eyes slightly puffy, not menacing me exactly, but rather with the air of someone doing an unpleasant job and getting it over with.)

I told him I didn't think there was any point in my leaving.

He then asked for my credentials back. I gave them to him. "And Tom," he said as I was leaving, "don't come back in here again, you hear?"

I later found out that Shaw's lawyers had no intention of putting any of the Clinton witnesses back on the stand, and so it looks as though the whole thing was just a maneuver to get me to leave the city.

While I had been in the office with Alcock, alone, he did say one thing which lingered in my mind. He commented on Spiesel's testimony, and frankly conceded it had been a disaster for the office. "You really hurt us there," Alcock said, and then he went on: "I will say this, his background should have come out. It was only fair that it came out, but it shouldn't have come from you." He later repeated this, almost word for word, after the trial.

The next day, (Wed, Feb 12,) ~~four~~<sup>three</sup> main witnesses were called to the stand: Andrew Sciambra, the forgetful memorandum writer; Chuck Rolland, the skating rink owner; and James Hardiman, a postman who testified that he delivered several letters addressed to "Clay Bertrand" at a house where Clay Shaw was staying. Maybe a fourth would have testified too, the erstwhile Orleans Parish Coroner, Nicholas Chetta, but he had died in 1968. Chetta was the doctor who administered ~~the~~ sodium pentothal to Perry Russo two days before Clay Shaw was arrested, and then testified at the Preliminary Hearing for Clay Shaw.

There has been a great deal of talk surrounding the Kennedy assassination about the courtroom being the "proper place" for it, together with utterance