

3/7/69

Not With a Roar But a Whimper:

The Show Trial and the Garrison Calypso

Two years of grandiose claims by <sup>New Orleans</sup> D.A. Jim Garrison ended in mortifying bankruptcy with the unanimous verdict of 12 jurors, on first ballot, that Clay Shaw was not guilty. The verdict came in the early hours of March 1, 1969, after less than an hour of deliberation. The prosecution case proved to be a complete fiasco, with witness after witness for the State discredited or shaken.

At the outset the prosecution called a number of witnesses from Clinton, La., who testified that they had seen Oswald and/or Shaw and/or Ferris in their town in the summer of 1963 during a voter-registration drive.

Their identifications, some 5 years after the event, of strangers seen on one occasion under circumstances in no way especially memorable, could have no inherent plausibility. Defense witnesses later weakened the testimony of the Clinton group still further by placing Shaw in his New Orleans office at the time he was supposedly seen in Clinton, and ruling out his use of the car in which

he was allegedly seen ~~sitting~~ there. Yet the Clinton witnesses emerged relatively unscathed, compared with later State witnesses.

Vernon Bundy, convicted criminal and ex-narcotics addict, repeated his story of having seen Shaw with Oswald in mid-1963, but with no greater credibility than when he gave the same testimony in March 1967 and identified Shaw as the man he had seen once only, some 4 years earlier.

A "surprise witness," Charles Spiesel, a N.Y. accountant, probably surprised the prosecution more than anyone else. He, like Levy Russo, testified that he attended a party in 1963 at which Shaw and Ferrie were present and discussed murdering JFK. His allegations under direct examination by the State seemed gravely damaging to Shaw. But under cross-examination, Spiesel admitted that he was the victim of hypnosis, torture, and (a Communist) conspiracy. He had filed suit for \$16 million against various NYC authorities and private individuals; he

blamed the Communists for the loss of his virility; and had at times finger-poked his own daughter, for fear that she was an imposter-agent.

Mr. Spiesel's testimony had comic pathos but no evidencing value, and cast aspersions upon many die-hard Garrison supporters.

(They, however, did not blame Garrison for placing so ridiculous a witness on the stand, with or without knowledge of his case history and in the face of strong advice from his own aides — they charged that Spiesel had been "planted" on the hapless D.A., as had been such predecessor embarrassments as William Juvich, Bill Boxley, etc.)

The incredible account was followed by other witnesses scarcely more imposing and almost as vulnerable. A letter-carrier testified that he had delivered letters to "Ray Bertrand" care of a close friend who for a while <sup>had</sup> received mail for Ray Show. Asked if he had also delivered mail addressed to Cliff Bondreane at the same address, the postman replied that he had — only to hear the defense

attorney say that he had just invented the name "Clay Bestrand" and to acknowledge, in visible embarrassment, that he might have done so.

The State called to the stand a woman who identified Clay Shaw as the man who had signed "Clay Bestrand" on the register of the airport VIP lounge, in December 1966, where the witness was then a hostess. The D.A. had not subjected the signature to handwriting analysis before examining the witness, ~~but~~ the defense expert later testified in detail on his comparison of the writing with Clay Shaw's actual handwriting and his conclusion that Shaw did not write the "Clay Bestrand" entry in the VIP register.

Garrison only ~~later~~ <sup>then</sup> called his own expert, as a rebuttal witness; this expert told the jury that Shaw "had very probably" signed the register — and that she expected to be paid for her testimony (the defense handwriting expert had volunteered his services, in the interests of justice).

In rebuttal of the charge that Shaw had signed the register, the defense provided evidence that Shaw always traveled by rail and had no reason to visit the VIP lounge merely to sign the register. More significantly, the defense called to the stand the man who had signed his own name on the line just above the "Clay Bertrand" signature. This witness was acquainted with Shaw but said Shaw was not present in the lounge when he himself signed the register, nor during the next 20-30 minutes.

(The fact that the disputed signature was the last on the page, and that Shaw was already under suspicion of Garrison at the time, and interrogated by him a week after the date of the questioned signature, suggests the need for further handwriting comparisons by experts, of the writing of those associated with Shaw's accuser.)

Another star witness for the D.A., a police officer named Aloysius Habinghorst, was to testify that Shaw admitted his use of the alias "Clay Bertrand" while being fingerprinted when arrested by Garrison in March 1967. Judge Haggerty, who had given great latitude to the prosecution, angrily denounced Habinghorst as a liar - his story was contradicted by other police officers present at the time - and refused to permit him to testify. He also charged that the police had violated Shaw's rights by excluding his attorney, and that Habinghorst's testimony would be inadmissible even if true.

Asst. D.A. Andrew Sciambra was unable on the witness stand to provide a persuasive explanation for pivotal omissions from his report of Perry Russo's first interview (the report failed to mention the conspiratorial party in Ferrie's apartment, or Shaw's presence there, or Oswald). Even more embarrassing, in the wake of Garrison's

reported public ridicule of Warren Report witnesses who had burned papers or of documents destroyed by mysterious combustion or incineration — Scimber admitted under cross-examination that he had burned his original notes of his interview of Russo, on a date he did not remember, for "security reasons." (The "security" measures applied by Garrison's office are illustrated by the free access given numerous visitors to examine files — including files not yet screened by the D.A.'s staff — and even to make xerox copies of the records.)

Perry Russo, the star witness for the State, struck the coup de grace to Garrison's position by recanting those elements in his testimony of March 1967 which were crucial for the incrimination of Shaw as a conspirator. He said under cross-examination that neither Shaw ~~nor~~ Oswald had ever agreed to kill President Kennedy, that the "conspiratorial conversation" in

Ferris's apartment might have been nothing but a full session, and that he was not a thousand percent sure of his identification of Shaw as the man present at Ferris's party under the name "Clem Bertrand."

Defense witnesses subsequently testified that Fuzas had said he was uncertain of his identification of Shaw but afraid of what Garrison would do to him if he retracted his story.

This, in essence, was the <sup>entire</sup> "case" placed before the jury by the D.A. and almost instantly rejected decisively by all 12 jurors. \* It was a most humiliating climax to almost 25 months of Garrison's braggadocio and escalating charges, against Shaw and others who suffered untold injury from <sup>(the loud-mouthings of)</sup> a prosecutor who at no time had any semblance of a genuine case.

But it was not Shaw alone who was on trial in New Orleans. As everyone agrees, the trial was used by Garrison to place the WR in the dock. Indeed,

\* (Garrison never presented in court much evidence, like the "code" of



there were those among Garrison's supporters who always believed that his charges against Show were only a device by which the WR evidence could be tested in a courtroom, and who condoned this means - the pillorying of an innocent man - to that necessary end.

~~Indeed~~, The WR had been proven unreliable, ~~and~~ thoroughly defective, and deceptive by its authentic critics, long before Garrison decided to enter into the controversy as the self-appointed "leader" of the attack on the WR. For his trial of the WR, he 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 and data sufficient to produce as brilliant a success in Garrison's prosecution of the WR as his prosecution of Show had been a dismal failure and travesty.

In the event, the State was incredibly inept and ineffective in its attack on the WR. At one

jurisdiction, the prosecution actually argued exactly as the WR before it that Oswald had carried a rifle into the Bank Depository, while the defense attorneys vigorously disputed that and said rightly, in summation, that Garrison has failed utterly to demonstrate this "overt act" by Oswald.

The prosecution failed to confront effectively the valuable testimony of such witnesses as Marina Oswald Porter, FBI photo expert Lyndal Shaneyfelt, and FBI ballistics expert Robert Frazier — a failure confounding to experts and critics of the WR.

But the State succeeded, almost in spite of itself, in casting serious doubt on the reconstruction of events by the WC. It made effective use of the Zapruder film, which was shown numerous times over defense objections, and which was acknowledged by the press to show that JFK was thrust backward by the lead shot, though supposedly it came from his rear.

State witness Dr. John Nichols, pathologist, University of Kansas, bolstered the film by testifying to his opinion that the shot was compatible with a bullet from the front of the car. Nichols also gave effective expert testimony disputing 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 5<sup>th</sup> floor window, and 4 men fleeing after the shooting, and that the FBI had told him to keep his mouth shut about these observations. Mr and Mrs <sup>Willigan</sup> Newman gave testimony bolstering other evidence that the shots had come from the grassy knoll behind them, cursing them to throw themselves over their child to protect him.

The most damaging of all the testimony to confidence in the WR was elicited during cross-examination of defense witness

Dr. Pierre Finch, one of the three autopsy surgeons who had conducted the post-mortem on the murdered President on the night of 11/22/63. Finch admitted that top military brass had been present during the autopsy, that an Army general had declared himself to be in charge, that a Navy Admiral had instructed the pathologists not to dissect the neck (to determine the presence of a bullet path, one of the most controversial forensic issues still), and that an Admiral had asked the surgeons to insert the word "presumably" in describing a wound of entry, which Finch testified was definitely (not presumably) an entry wound.

Very serious discrepancies <sup>were shown</sup> in the original autopsy report and in later reviews confirming it — including a 1968 panel report by 4 doctors who secretly examined the autopsy photos and X-rays — both in the New Orleans trial and at a hearing in Washington, D.C.,

before Federal district judge Charles Halleck, Jr. on Garrison's subpoena of the JFK autopsy photos and X-rays. A brief filed by Bernard Fensterwald, appending monographs by forensic pathologist Dr. Cyril H. Wecht of Pittsburgh and anthropologist Robert Forman of Goshokh, led to a hearing in which Wecht and Forman both testified.

They pointed to numerous, serious discrepancies and contradictions, in and between the various autopsy reports and reviews. Judge Halleck, apparently satisfied that his "show cause" condition had been met and that, in effect, prima facie evidence that JFK was shot from two or more directions had been demonstrated, ruled that the autopsy photos and X-rays, and other physical evidence in the Archives (garments, bullet found on stretcher, etc.) should be produced by the Gov't for examination by Dr. Wecht and then for presentation at the Show trial.

The Dept of Justice served immediate notice of intention to appeal the ruling

but before the appeal was heard, Garrison rested the case against Show and his office wired the Justice Dept. that the autopsy photos and X-rays were no longer needed.

The net results of the Garrison extravaganza and the long-awaited Show trial? The charges against Show were decisively shown to be without any foundation, and spurious in whole or in part. Garrison stands exposed as a thoroughly unprincipled man who has abused the powers of his office to the extreme. His attack on the WR was generally ineffectual — whether inadvertently or by design — and compromised by being linked to a prosecution of a defendant that was a shameful dud, earning universal scorn and wrath.

The press has gleefully and pointedly reported the presence at the Show trial of many major critics of the WR, and

the long-term aid and comfort given Garrison in his despicable, preposterous campaign by many or most of the WR critics and by mini-"critics" like entertainer Most Sahl. This reportage is factual, however much malice it gives the reporters. Thus, critics of the WR — including the several critics who have strongly repudiated Garrison, on the record, all along — are as a group compromised and <sup>indiscriminately</sup> discredited in the eyes of many, and must share in Garrison's stigma and disgrace. Those who ~~they~~ condoned and applauded on Garrison's part ~~these~~ <sup>the</sup> very ~~elements~~ <sup>infractions</sup> which they had denounced on the part of the WC, ~~and these critics~~ must pay the penalty for their lack of principle, in loss of reputation and credibility.

One "critic of the WR" (if he really merits the title) made a withering, denigrating, and fully-warranted attack on Garrison and his inguiring

Some months before the Show trial.

His article has been fully vindicated by the outcome of the trial, although his increasing softness on the WR compromises his intellectual and moral integrity.

The disgusting spectacle of Garrison's trial of Clay Shaw, and ~~the~~ the ~~impudent~~ self-incrimination of ex-critics and pseudo-critics of the WR, confirms me in the conviction I first expressed in September 1967 in a letter to the N.Y. Review of Books — that one is not obliged to take sides in gang warfare in which both factions — the WC and the New Orleans D-A — have nothing but contempt for the truth.

Lynne Hughes



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