JUDGES ORDER SHAW TRIED IN JFK CASE

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Testimony of Lakefront Meeting Brings Hearing to End

By DON HUGHES and CLARENCE DOUCET

A three-judge panel of Criminal District Court judges late Friday afternoon ordered Clay L. Shaw held for trial on charges of participating in a conspiracy here to assassinate President John F. Kennedy.

The decision came following the fourth day of a preliminary hearing for Shaw, after the judges conferred for 34 minutes.

The hearing's end concluded testimony and cross examination of world-wide interest which saw newsmen from around the globe converge on New Orleans to cover an event which can possibly rewrite history books of the 20th century.

To top off the hearing, District Attorney Jim Garrison, in his first court appearance since Wednesday morning, produced a 29-year-old Negro witness who claims to have seen a lakefront meeting between Shaw and Lee Harvey Oswald here in 1963.

—Photo by The Times-Picayune.
DR. NICHOLAS J. CHETTA . . . Tells of truth serum.

As the decision was read shortly afte 5:40 p. m., Shaw sat steadily in his chair, looking straight ahead. He showed no apparent emotion.

The text of the decision read: "This court finds sufficient evidence to establish probable cause that a crime has been committed. It is sufficient to justify bringing into play the further steps of the criminal process against the arrestee, Clay L. Shaw."

The order was signed by Judges Malcolm V. O. O'Hara, Bernard J. Bagert, and Matthew S. Braniff.

William Wegmann, in an impassioned summation for the defense, said the state failed to present evidence warranting the holding of Shaw for trial.

"At best it's evidence that might warrant further investigation, but it was not sufficient to say to this man, 'You are one of the people who might have killed the President of the United States.'

Such action by the court, Wegmann continued, would subject Shaw "to all kinds of ridicule and risk.

State Rests Case on Two Witnesses

Asst. Dist. Atty. James Alcock said the state was resting the case on the testimony of its two key witnessees, Perry Raymond Russo and Vernon William Bundy Jr.

Just prior to the summation was the second lengthly argument in two days over whether defense had the right to enter the Warren Report as prima facie evidence.

By a 2 to 1 decision, the judges said no.

Bundy, a self-admitted former narcotics addict and an inmate of Parish Prisson for the past two weeks, restaged a dramatic move enacted earlier this week during a preliminary hearing for Shaw by placing his hand above the defendant's head and naming him as the man he saw meet with Oswald.

In the packed courtroom at the Criminal Courts Building,

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the hearing for Shaw observed his 54th birthday Friday.

Oswald, a former resident of New Orleans, was named by the Warren Commission as the lone assassin of President Kennedy in Dallas, Tex., Nov. 22, 1963. Shaw, former managing director of the International Trade Mart, was arrested March 1 for allegedly participating in a local plot to murder Kennedy. The tall, grey-haired Shaw has denied ever having met Oswald.

Bundy, a stocky man who appeared wearing a plaid, long-sleeved sports shirt, told the court of overhearing a conversation between Shaw and Oswald near Lincoln Beach during either June or July, 1963. He testified that he found a piece of paper on the ground after the two left. The paper, he said, mentioned "something about Cuba."

Under cross examination, Bunday said that when he saw Shaw and Oswald together there was no one else around for about four or five blocks. He said he could not hear anything until the "young fellow" spoke.

Asked when he first told someone about his evidence, Bundy replied, "Yesterday when they got in touch with me." Dymond asked who, and Bundy replied: "Three guys from the DA's office."

Bundy said he never discussed the matter with anyone else.

The state entered several photographs as evidence just prior to the debate over whether the Warren Report was admissible as evidence.

VERNON BUNDY
. . . Testifies he saw Shaw, Oswald together.

Judge Bernard S. Bagert, the presiding officer, said he and Judge Matthew S. Braniff were of the same mind; that it is not admissible. Judge Malcolm V. O'Hara, he said, felt it should be admitted.

Braniff said he felt the report was "fraught with hearsay and conversation." Judge Bagert later described it as containing "hearsay five and six times removed."

Judge O'Hara said that while he felt it was admissible he was not necessarily in complete agreement with it.

During earlier testimony Friday, the following were called as witnesses: Dr. Nicholas P. Chetta, Orleans Parish coroner; Dr. Esmond Fatter, a local physician associated with the coroner's office and a member of the American Society of Clinical Hypnosis; and C. W. Johnson, district director for the Immigration and Naturalization Service in New Orleans.

Dr. Chetta and Dr. Fatter were witnesses for the state, but Johnson was called by the defense.

Thursday, the hearing included testimony of Perry Raymond Russo, a Baton Rouge insurance salesman who claimed he was present at a September, 1963, meeting between Shaw, Oswald and David William Ferrie during which the trio allegedly plotted Kennedy's murder.

Ferrie, a 49-year-old freelance pilot, died in his Louisiana ave. pkwy. apartment Feb. 22, of what was ruled natural causes. Garrison said the following day that he planned to arrest Ferrie in connection with the case the next week.

Representing Shaw, who is free on $10,000 bond, are attorneys F. Irvin Dymond, Edward and William Wegmann, and Salvadore Panzeca.

At 2:30 p. m. Friday the state called for its next witness. Bundy, a clothes presser whose residence is listed as 4039 Athis ct., was sworn in on the witness stand. Minutes before this, Garrison, sunburned and somber-looking, entered the room. A buzz of excitement rose from newsmen and spectators who related another major happening in the hearing with the District Attorney's arrival.

"Do you remember the summer of 1963," asked Garrison.

Bundy said that he did.

"Do you remember anything unusual by the lakefront," the District Attorney questioned.

Bundy again said that he did Asked to tell what he recalled Bundy said that he left his home at about 9 a. m. on a Monday (he did not recall the date) with two root beer bottles.

Walking from his residence 2013 Dumaine at that time, Bundy went to Smith's Pharmacy at Galxez and Dumaine and bought one root beer, had the cap removed and placed it back loosely on the bottle. The other bottle contained only water.

He said he then caught the Galvez bus, transferred to the Franklin ave. bus and rode to the vicinity of Camp Leroy Johnson near Lake Pontchartrain. The witness said he then walked toward the seawall. The time was about 9:15 a. m.

Other than the root beer and bottle of water, Bundy said he had two caps of heroin in his possession, and the equipment with which to administer the narcotics to himself. He called it his "outfit." Before sitting down near the seawall, Bundy hunted for and found a "boot"—a piece of paper instrumental in taking heroin.

"What was the root beer for," interjected Garrison.

Bundy explained that after taking the heroin he would get thirsty and need something to drink.

Continuing, Bundy said he then emptied the two caps of heroin into the bottle top which had been loosely placed atop the root beer. This is used as a "cooker" in which the narcotic preparation is mixed and heated before injection.

SEDAN REPORTED

While Bunday looked around him to see if anyone was watching, a black, four-door sedan pulled up and parked, stated the witness. From it emerged "a tall man, 6'1" or 6'2" in a full suit, with tie and white shirt. Bundy said the man had grey hair, and was a white man.

"I was wondering what he was doing," Bundy said. He said he didn't know if the man was a policeman or a narcotics squadsman, and was prepared to throw the narcotics and

equipment in the lake if the man tried to apprehend him.

At that time, Bundy continued, a "young fellow" approached on foot from the direction of the Pontchartrain Beach Amusement Park. In the meanwhile, the older, grey-haired man remarked to Bundy how hot it was that day, the witness said.

When the young man arrived, he talked with the first arrival for about 15 or 20 minutes, remarked Bundy. He described the younger man as a "beatnik" type, wearing white ;eans and a tee shirt. He was "in pretty nasty shape" and needed a shave and a haircut, added Bundy.

"He looked as though he needed everything," Bundy continued. This brought laughter from the spectators.

Bundy said he overheard the younger man saying, "Well, what am I going to tell her?" The other man replied, "Don't worry about it. I told you I was going to take care of everything," testified Bundy.

The tall, grey-haired man then handed the other what looked like a roll of money, which the latter placed in his right pants pocket. In another pocket he carried what appeared to be pamphlets, said Bundy.

The two then parted, and the younger man walked back in the direction from which he came. The older man again remarked to Bundy on what a hot day it was, the witness stated.

It was at this time that Garrison produced seven photographs which were first reviewed by the three judges. The district attorney gave them to Bundy and asked him if he could identify any of the men pictured.

Witness Identifies Both Shaw, Oswald

The witness picked a photo marked S-21 and said it was Lee Harvey Oswald, the younger man he saw at the lakefront.

He then chose another picture, S-20, and identified him as the defendant, Clay L. Shaw. Bundy said Shaw was the man who talked with Oswald that day at the lake.

Returning the testimony to the lakefront scene, Bundy said that, after the young man walked away, the older of the two returned to his car and drove off in the direction of Lincoln Beach.

Bundy said he then "shot" both caps of heroin, cleaned his "outfit," threw the bottles into the lake and began looking for a piece of paper in which to wrap his equipment. The paper he found was yellow, he said, and it said "something about Cuba." There was more than one ,he added, but he didn't bother about the others.

"Vernon, has my office promised you anything to give this testimony," Garrison asked.

Bundy said "no."

"Were you able to see their faces clearly?" (at the lake.)

"Yes."

"Are either of the men you say in court today?"

"Yes, the grey-headed fellow," answered Bundy.

Garrison then asked the witness to walk from the stand and place his hand above the head of the man he saw at the lakefront in the summer of 1963.

Bundy walked briskly to the defense table and held his hand above the head of Shaw.

Garrison rested his case.

The same move was made earlier in the hearing when Garrison asked Russo to place his hand above the man he claimed to have seen conspiring with Oswald and Ferrie. Russo, also, held his hand over Shaw's head.

Dymond then began his cross examination, hammering for the most part of Bundy's narcotics habit, how long he used narcotics, and the size of his addiction.

Bundy testified that his habit was "three or four caps a day" of heroin at a cost of $5 each. He said he worked for the money, and, on occasions, stole salable items to raise additional money. He first began "shooting drugs" when he was 13 years old, but did not become "a real every day addict" until he finished high school in 1959 at the age of 22.

"How much a day did you have to steal in order to get the money," asked Dymond.

Bunday said he did not steal

Russo Arrives at Court Again

—Photo by The Times-Picayune.

PERRY R. RUSSO, the star witness in the preliminary hearing involving Clay L. Shaw, arrives at the Criminal District Courts building Friday, but did not testify. Blonde young woman is not identified.

every day, but "whenever I saw I could make a hustle."

Asked if his habit in the summer of 1963 was a large one, Bundy said it was not. He said he knew addicts who shot up to 40 caps a day.

SYMPTOMS GIVEN

Dymond asked for a description of the symptoms suffered by an addict when the effect of a drug is wearing off. Bundy said it causes sneezing, nose running, headaches, and pains in the joints. He also said the eyes would run water.

The witness said that before going to the lake that day in 1963 he had last taken heroin the night before. He said the effects of the previous day's injections had worn off, but he was not yet suffering from any of the symptoms of withdrawal. He had shot five caps of heroin the day before the alleged lakefront incident, Bundy added.

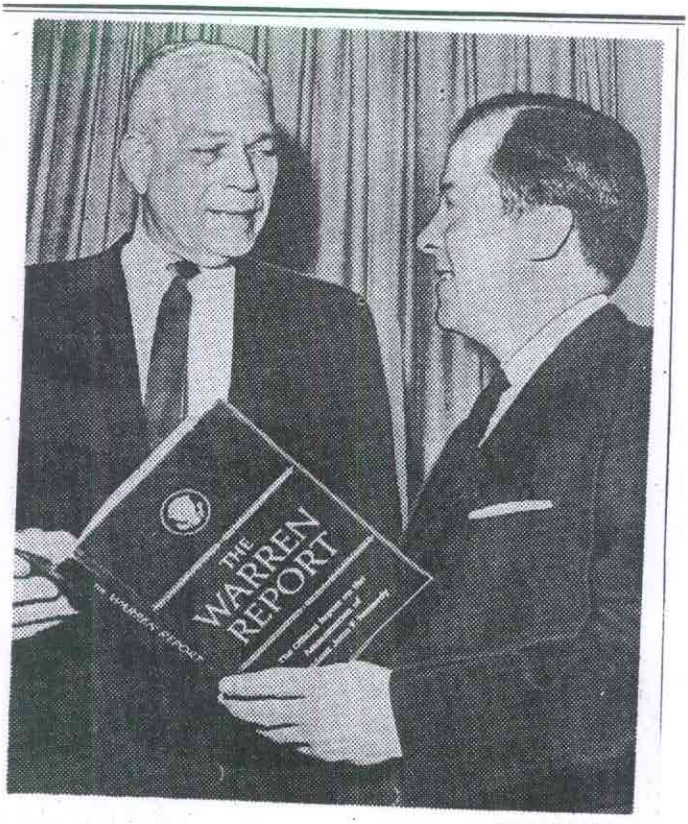
Asked to be more specific about the date of the sighting, Bundy said he was not sure of the date, but knew it was a Monday because he was off from work, and knew it was either June or July because he was planning to be married shortly. The marriage, however, never happened as the girl discovered his addiction to narcotics, Bundy testified.

At this time, Judge Bagert began asking Bundy questions.

Asked if he knew Judge Bagert, Bundy said that he appeared before him in May of 1966 on a charge of attempting to break into a vending machine at Municipal Auditorium. Bundy said he discussed his case with Judge Bagert, and the judge placed him on five years probation under th provision that he admit himself to the United States Public Health Service Hospital ni Fort Worth, Tex., for the purpose of curing his narcotics habit. He complied with the ruling, Bundy said.

Two weeks ago, Bundy turned himself in to Police Lt. Clarence Giarrusso, head of the police narcotics division, because he felt he might return to the habit. He was arrested March 4 on a charge of violation of probation and his since been jailed here.

Judge Bagert apparently made



—AP WIREPHOTO.

DEFENDANT Clay L. Shaw (left) and his attorney, Edward Wegmann examine a copy of the Warren Report which says Lee Harvey Oswald acted alone in killing President Kennedy. A preliminary hearing, in which a witness testified that Shaw was part of an assassination conspiracy, concluded on Friday.

the move so that both the state and defense would know that he and Bundy met on a previous occasion and would know the nature of their meeting.

In its summation, defense blasted the testimony of both Russo and Bundy.

Russo, defense said, was unable to identify Oswald from "a very famous picture" of Oswald being shot by Jack Ruby; failed to recognize Oswald as a clean-shaven man, while at the same time admitting he had seen him clean-shaven.

He said Russo's testimony was "unbelievable" and "not worthy of belief," adding "he wants you to believe that less than 60 days before the assassination, these three men sat down before a man who was a total stranger to two of them and discussed their plan."

He said Russo "liver under the spell of Ferrie," and after hearing the plot, learning the President was assassinated, he still failed to come forward "because he was too emmeshed in school problems."

About the mid-September 1963 meeting, itself, which Russo said was in Ferrie's apartment, the defense summation said:

He didn't know what day of the week, or what week of the month it was; he couldn't remember who brought him there, nor the number of people, but he could recall the kind of clothing worn by the principals, but was unable to remember anyone else who was present earlier in the night.

Wegmann said the only fact that was obvious was that Russo knew Ferrie and visited him and that Ferrie visited Russo.

Defense said that if the court ruled in Shaw's favor, the district attorney's office still had six years to prove a case if it had one.

Dr. Chetta, Dr. Fatter and C. W. Johnson were the only witnesses to testify during the morning session, a great part

of which was devoted to legal-technical-medical discussions and arguments between opposing attorneys or with the three-judge court.

Johnson, who is district director for the Immigration and Naturalization Service here, was the first witness called.

He appeared in answer to a subpena filed by the defense late Thursday. Johnson, according to a provision of the subpena, brought with him the records of two men, one named Garcia Manuel Gonzales, and the other Manuel Garcia Gonzales.

The name "Manuel" was mentioned Thursday by Russo when asked if any Spanish-speaking persons were at Ferrie's apartment in mid-September, 1963.

Russo also mentioned the first name of another Spanish-speaking man he remembered having seen at Ferrie's. This man's name was listed in the subpena as Julio Buzerno.

Johnson told the court Friday that his office does not have records pertaining to anyone by that name.

The court asked Dymond if the two men Garcia Manuel Gonzales and Manuel Garcia Gonzales were the same, and he said he did not know.

Johnson was excused as a witness. Dr. Chetta took his place on the witness stand, and the state resumed questioning it started Thursday afternoon.

Dr. Chetta was asked if a person who is put under a hypnotic trance will tend to remember more about an incident after he is brought out of the trance.

"Yes, sir. That's quite true," answered Chetta, who said that remembrance may come as much as a week or a month later when the person "may have recall of a very important name, place or thing."

ASKED REASON

The state asked why this is so. Chetta said he could not give a really scientific explanation, but that probably it takes a person that particular length of time to remove a block or log-jam.

Chetta was also asked if a theoretical white male, 25 years old, with an educational background of high school, and a college degree, is placed under a hypnotic trance and ordered by the doctor to count to five, and is told when he gets to five he will wake up, and he actually counts one, two, three, four, five, is it possible that, when he is out of the trance, he can remember hearing only the number five? Chetta said this is quite possible.

Defense raised the question to Russo Thursday why he could remember saying the number five, but no other numbers when he was in a situation similar to the theoretical case.

Dr. Chetta also listed times that Russo was hypnotized as Feb. 28, March 2 and March 12.

The first encounter between opposing attorneys occurred when the state asked if a person is questioned while hypnotized about a particular month in a particular year, would his recall about that period improve after he is brought out of the trance but not improve about some other month?

Defense, through Dymond, said that the state was trying to bolster the credability of Russo's testimony. State maintained that the sanity or insanity of the witness was the issue.

After Judge Bagert offered a comment, Dymond said of Oser's question, "I'm sure he's on credibility," and Oser said: "I'm on sanity and insanity."

The objection was ultimately overruled, and Chetta said his answer was yes.

The next question was also objected to by defense.

State asked if the theoretical 25-year-old college graduate could remember more after hypnotism if questioned under the trance about a meeting he attended when three people plotted the assassination of President Kennedy.

After more discussion, the objection was this time sustained.

Clearer Recall by Hypnosis Is Alleged

Bagert advised defense that its question would be in line if it asked whether the event a person witnessed would be recalled more clearly after hypnosis.

Chetta said the answer was yes.

The state also asked if there was any relation between the number of times a person is hypnotized and his ability to recall more and more information as well as have a more clear memory of it.

Dr. Chetta said, "Again, the answer is yes. With successive hypnotic trances in which you are dealing with a specific line of specific events, the person would have better recall on successive occasions of hypnotic trance."

On cross-examination by defense, Dr. Chetta was questioned about sodium penethol, the "truth serum" he administered to Russo.

William Wegmann asked Dr. Chetta if the medication not only lessens inhibitions to expression, but also opens avenues of fantasy.

Chetta said this was so, but it depends upon the person conducting the test to segregate fact from fantasy.

He was asked if it is possible to lie or to have fantasies under the drug.

Chetta explained that "truth serum" is a misnomer picked up by laymen, and that faking, lying and fantasies are possible.

He was next asked if it is not a fact that there is disagreement between the medical profession and psychiatrists about the reliability of truth serum.

"I would say it is not a fact," answered Dr. Chetta. He said there may be disagreement, but not among professions.

He compared it with two lawyers having different interpretations of the law.

'MATTER OF CHOICE'

"It is a matter of opinion?"

"No, it is a matter of choice," said Dr. Chetta.

Under additional questioning, Dr. Chetta said he gave the tests to Russo the first day he met him, after talking with him for about an hour.

He was asked if part of the interpretation of results of such a test was dependent on how well the observer knows the subject.

Dr. Chetta said defense should remember that after 17 years of investigations, a person is able to bring down the subject through quite a bit of background in a short time.

He said he had examined

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Russo since March 12.

After defense halted it's cross examination, the state asked Dr. Chetta if Russo was faking. The defense objected, and after another legal hassle the court ruled that Dr. Chetta answered the question the previous day.

Dr. Fatter took the stand at 11:10 a. m. and outlined his professional background, including special training in hypnotism and as a founder of the American Society of Clinical Hypnotism.

He said he has hypnotized "hundreds of people" and spoken before Loyola and Louisiana State University medical students, had papers published on the subject in medical journals and had many referrals to evaluate patients.

After Dr. Fatter answered questions about his background, the court ruled he was an expert witness.

DEFINES TERMS

Dr. Fatter spent a great deal of the time going into technical medical details about hypnosis and at great length defined a trance or trance-state. He also defined regression and fixation.

Concerning Russo, Dr. Fatter said he did speak with him in the presence of others for about 35 to 40 minutes and he spoke with him privately.

He said he asked Russo if he had ever been hypnotized before and Russo said he had been. Russo told Dr. Fatter, the physician continued, that he was hypnotized by someone using a silver coin.

Dr. Fatter said that when he produced a coin . . .

Defense objected, claiming that Dr. Fatter was giving hearsay evidence by quoting Russo telling him something someone else said. The objection was overruled.

Fatter continued that after he produced a coin he asked Russo, "You mean in this fashion?", holding the coin away from him.

Russo, he said, replied: "I can see only one coin. It was two coins."

Dr. Fatter said he immediately put the coin closer to Russo's face, to produce a vision of it in each eye, and Russo showed signs of going into a trance.

"I'd like to talk to you further," Dr. Fatter quoted Russo as saying.

Dr. Fatter was also asked how he hypnotized Russo.

He said he used the trans-induction technique which began on his meeting with Russo, a technique that attempts to put the subject at ease long before he actually is put into a trance.

He said Russo obtained "a very good" state of hypnotism; that he was in "a moderately deep trance state." He said this was determined by the tone of his facial muscles, his arm, his eyelids and levitation movements.

Dr. Fatter said that, in his opinion, Russo regressed "very beautifully," adding that he "verbalized in much the same fashion as some one you would feel was talking in his sleep."

A question was asked if Russo was questioned about 1963.

After an overruled objection, Dr. Fatter said he did.

Questioning Brings on Lengthy Debate

The next question, also about questioning of Russo while he was hypnotized, brought another lengthly legal debate, which was ultimately sustained.

Just before the recess for lunch, Dr. Fatter answered that he had occasion to speak with a member of the District Attorney's staff relative to questions to be asked Russo.

The state then asked Dr. Fatter if he could, "without saying what was told to you by Russo, say essentially what was told to you by this member of the District Attorney's staff."

The defense again objected, stating that it was obvious that the state was attempting to get into the record testimony on which an objection was sustained just previously.

In for the afternoon session Dr. Fatter testified that Perry Russo regressed several times in his first hypnotic session, which he said was March 1. The regression was

for about one and one half hours though it seemed about five minutes to the patient.

Alcock asked if he felt the hypnotic session refreshed Russo's memory. "Yes," said Dr. Fatter.

Dr. Fatter said the second time he put Russo under hypnosis, March 9, he told Russo to visualize that he (Russo) was standing at the top of a 21-step staircase. He would descend it step by step, said Dr. Fatter and would go deeper and deeper into the trance.

"Then you are to go up a hall 50 feet, see a door, open that door and go into a time tunnel," said Dr. Fatter, reading from his notes. "You will go spinning and spinning and be thrown out in September."

Here, defense attorney Dymond protested.

Judge O'Hara said, "The question is whether he was in a trance or not; how he got there is immaterial to me."

Alcock asked Dr. Fatter if he felt Russo was faking being in a state of trance.

'IN STATE OF TRANCE'

"Mr. Russo was in a state of trance," replied Dr. Fatter.

Defense Attorney Wegmann asked Dr. Fatter if he gave Russo a post hypnotic suggestion at their last meeting Sunday — two days before the hearing began.

Dr. Fatter again referred to his notes. "This is what I told Mr. Russo," said Dr. Fatter. "I said, 'Relax, you will be calm, cool, collected. You can do anything you wish and do the task well. Things will pop into your mind. You will speak You will have no fear, because you will be telling the truth as the truth only as you see it. you know it.

" 'Remember, the truth always wins out. You also may feel that to be true also.' "

Wegmann pressed Dr. Fatter, asking if he felt Russo testified under this suggestion.

"He could have if he accepted the suggestion," said Dr. Fatter, "but I have no way of knowing if he did."

Recording of Ferrie Voice Played Here

The East Baton Rouge district attorney and a sheriff's deputy Friday played for Orleans Dist. Atty. Jim Garrison's office here a 1961 recording of David W. Ferrie's voice.

Ferrie reportedly mentioned a number of names in the tape recording.

Ferrie, a former airline pilot and Civil Air Patrol official, died Feb. 22 while under investigation by the district attorney's office here.

He is among those Perry Russo, Baton Rouge insurance salesman, claims discussed in September, 1963, a plan to assassinate President John F. Kennedy and make a getaway.

Dist. Atty. Sargent Pitcher Jr. of East Baton Rouge Parish, and a deputy of Sheriff Bryan Clemmons came here Thursday night with the tape recording. Pitcher listened to the tape Thursday in Baton Rouge.

Sheriff Clemmons said he learned of the tape four days ago. He said he will have little comment about the recording until he hears from Pitcher.

Sheriff Clemmons did say the tape recording was not made in Baton Rouge.

'Difficult to Lie in Hypnotic State'

Dr. Donald M. Gallant, associate professor of psychiatry and neurology at Tulane Medical School, said Friday "There is no known procedure which will tell you with 100 per cent consistency that someone is telling the truth."

"But with hypnotism in the hands of an expert typnotist, such as Dr. Fatter," he added, "the chances of truth-telling are much greater than they are with sodium pentathol."

Dr. Gallant said: "In other words, hypnotism with Fatter is much more reliable than with sodium pentathol."

Dr. Gallant said, "It would be extremely difficult for even a pathological liar to lie under hypnotism provided the hypnotist is a good one."

"And Dr. Fatter," he added, "is one of the most experienced hypnotists in this section. He is also quite a competent man, with a very reliable reputation."