Why Judge Held Suspect

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By LESLIE H. WHITTEN

NEW ORLEANS, March 20—The chief judge of the three-man "New Orleans plot" panel insists that he "had no choice" but to hold for trial his long-time acquaintance Clay L. Shaw as a conspirator to murder President Kennedy.

Judge Bernard J. Bagert, in an unusual interview, said that the star state witness' dogged adherence to the same story despite two wearying days of cross-examination convinced him and his colleagues that they had absolutely no other course.

But in their deliberations—personal ones during the preliminary hearing and together for 33 minutes on Friday before their ruling—the question of why Perry R. Russo, 25, did not come forward three years ago with his conspiracy tale was the one that most burdened their minds.

Bagert, 54, ran the four days of hearings with a carbon steel hand. The alloy of emotion showed only Friday afternoon, when he read the controversial decision that challenged judicially for the first time the finding by the Warren Commission that Lee Harvey Oswald acted alone in assassinating the president.

On Saturday, he spent four hours lunching and talking with this reporter and another newsman as he showed them his favorite New Orleans bars and restaurants. Although some of his statements cannot be printed because they were given off-the-record, he was frank and to the point on a surprising number of provocative items.

The interview was released today by mutual agreement.

"This wasn't a question of guilty or not guilty. It was a question of probable cause. I believe there is probable cause, period. I will not go any further than that," Bagert said in answer to the question of whether he thought Shaw, 54, was a conspirator.

"Given what we got in there, I had no choice," he went on firmly. "Russo stood up. There were some minor discrepancies, but you tend to doubt, you have to doubt it, when there's a 100 per cent story every time."

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HEARD THEM

Russo had testified that Shaw, a wealthy businessman; eccentric David W. Ferrie, 49, a suspected pervert; and Lee Harvey Oswald spoke in his presence at a September, 1963, beer party of killing President Kennedy.

During deliberations, Bagert said, Judge Malcolm V. O'Hara was worried about whether the Warren report should have been allowed into evidence (it was excluded by a 2 to 1 vote), but agreed that probable cause to hold Shaw had been shown.

in JFK 'Plot'

Bagert, a short, round man as mentally tough as a cannonball, was plagued by why Russo did not come forward until after the death of Ferrie on Feb. 22. But the judge accurately pointed out that the defense did not come forward with a single witness or piece of physical evidence to shake Russo's conspiracy story.

Bagert, who, like Shaw started off on the wrong side of the tracks and who knew Shaw in junior high school, said, "Just think for one minute about the alternative that is, if we cut him loose."

With the defense depending

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Associated Press Wirephoto

FOND SENDOFF . . . New Orleans District Attorney Jim Garrison leans over for a kiss from his wife, Liz, holding year-old Eberhardt, as he leaves home for the office.

Tells Why He Held JFK 'Plot' Suspect

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on cross examination and not putting on a real case of its own, the nation and the world would have charged a fix, Bagert opined. He said Shaw's defense "was just grasping at straws."

If Bagert and his two fellow judges are certain they did right in throwing down the gauntlet before the Warren Commission, there are still questions that haunt their ease.

Was there really a plot?

He shook off such questions, but obviously they eat at him. At one point, he said how much he wished Ferrie were still alive, and could be questioned about the case to shed possible light on it.

GOT LETTERS

Bagert said he had gotten 10 or 12 letters, some against Shaw, some against New Orleans District Attorney Jim Garrison who has mounted the New Orleans investigation.

"No matter what we did, there'll always be a question mark," he said.

Bagert said he felt that Garrison had "put us right in the middle," by skirting a grand jury and letting the case go before the judges for a preliminary hearing. But Bagert was pleased with himself for appointing one judge—O'Hara—regarded as critical of Garrison and another—Matthew Braniff—regarded as a friend of the flamboyant district attorney, to balance his panel.

Bagert was pleased and a little awed by the turnout of Russian, Italian, French and English journalists among the 75 newsmen at the trial, but his delight in the publicity did not stop him from threatening to clear the courtroom several times.

Although Russo's testimony weighed most heavily with Bagert, he said he was unwilling to dismiss from his decision the testimony of admitted drug addict Vernon W. Bundy, 29, who said he saw Shaw give Oswald what looked like money at the New Orleans lake front.

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