At Shaw Trial

Judge Defied Own System

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NEW ORLEANS—Ash Wednesday was a singular day in the legal and political life of this city. A judge of the Criminal Court rose up from his bench and, to the shock of District Attorney Jim Garrison, defied the clublike judicial traditions of New Orleans.

He is Judge Edward A. Haggerty Jr., hard-drinking captive of the interlocking system of justice in Orleans Parish.

He took a cold look at some evidence against Clay Shaw and he found it unbelievable. And, what's more, he questioned the sworn testimony of the policeman who was a State's witness.

Garrison's prosecutors were unbelieving that the judge, who had indulged the State time after time for four weeks, should have violated, not any written covenant, but the system of indulgences to which the Parish law enforcers had become accustomed.

Even outside conspiracy-minded New Orleans, Judge Haggerty's ruling would have been remarkable: A State trial judge—not the Federal courts, not the U.S. Supreme Court—striking out evidence on constitutional grounds with the added observation that he, out of the jury's presence, didn't accept the sworn testimony of a policeman.

But in New Orleans, where Garrison still rides high and followers still believe he "must have something" against Shaw in the assassination of John F. Kennedy, the Judge's assertion of the independent function of his office judging was all the more remarkable.

For the New Orleans criminal justice system is more than the usual courthouse clique. It is a fiefdom, a family arrangement with inherited status and interdependent and sometimes interchangeable parts.

Judge Haggerty was assigned the case by his father, Edward Sr., the clerk of Criminal Court. The Judge's brother Daniel, is the Court's chief deputy clerk.

Another judge, Malcolm V. O'Hara, ran successfully in 1965 for the seat vacated by his retiring father. When the younger O'Hara doffed his robes two years ago to oppose Garrison's bid for re-election as District Attorney, his father came out of retirement and sat in for him. After losing the election, O'Hara simply reascended the bench.

When Judge Haggerty won his election to the bench 13 years ago, it was to replace the retiring Judge Fred Oser, whose son, Assistant District Attorney Alvin Oser, now handles the Dallas phase of Garrison's trial of the Warren Commission. The trial's custodian is Louis A. Heyd Jr., who like his father before him is Criminal Sheriff of Orleans Parish.

Only one of the eight criminal judges is not an alumnus of the District Attorney's office. Most of the judges are scarred veterans of Garrison's anti-corruption, anti-stripper, clean-out-the-queers campaigns through the French Quarter four years ago.

Garrison chastised the judges for locking up his crime-fighting budget — a funny sort of power for judges to have had in the first place—and the judges responded by convicting him of contempt. Garrison took the case to Washington and the Supreme Court sustained his free-speech right to question the motives of public officials, even judges. Subsequently, Garrison has freely exercised his critical facilities on Chief Justice Earl Warren and other Eastern Establishmentarians.

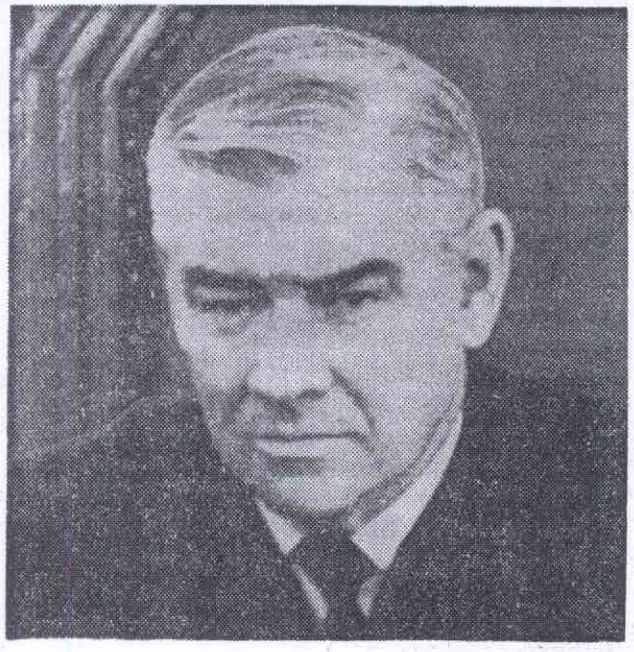
Nothing Judge Haggerty did or said on Ash Wednesday is likely to deter Garrison from his crusade against that Establishment. (Neither of the city's newspapers has uttered a critical editorial word for two years.) He has rested his case against Shaw without the National Archives assassination exhibits he sought, but this leaves him free to denounce the Federal Establishment for obstructionist tactics.

Despite one trial backfire after another, Garrison continues to thrive politically from his quixotic war on Washington. A healthy side to this city's conspiracy mania—suspicion of official secrecy—continues to nourish the campaign.

New Orleans cannot understand why the John F. Kennedy autopsy X-rays, photographs and reports should be considered private property. The sensibilities of the Kennedy family, the intense desire of the slain President's widow to shield her children from the horror of those pictures mean nothing to the true conspiracy believer, because Garrison's faithful flock cares little about President Kennedy. The Kennedy survivors are written off as somehow part of the conspiracy.

It was in the teeth of all this—the medieval court system of which he is a part, the continuing popularity of crusader Garrison, the festive and conspiracy-prone constituency — that Judge Haggerty issued his ruling on Ash Wednesday.

It was an exciting moment.



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Judge Edward Haggerty weighs a case in New Orleans.