

# Jury Deadlocks in Oswald Mock Trial

Verdict based on "testimony" of actor-witnesses elicited by real-life lawyers

When the accused killer of President John F. Kennedy was shot to death in Dallas 29 years ago, the nation was deprived of a trial that might have answered some of the questions that still surround the assassination today.

But a mock trial of Lee Harvey Oswald at the ABA's Annual Meeting in San Francisco in August, billed as the "Trial of the Century," ended about as conclusively as has the verdict of history.

A mock jury, selected to represent a cross section of the population of northern California, reached a deadlock after about 2 1/2 hours of deliberations. Seven of the jurors voted to convict Oswald; the other five favored acquittal.

Some of the doubters said the so-called "magic bullet" theory, used by critics to explain the Warren Commission's finding that one shot had passed through Kennedy and wounded then-Texas Gov. John Connally, was unbelievable. Others said that Oswald's alleged motive for killing the president was unclear.

A shadow jury made up of dismissed jurors came to a different conclusion, voting 3 to 2 for acquittal. Jurors who were excused by the prosecution sided with the defense. Those excused by the defense voted to convict.

"I don't know if that shows amazing clairvoyance on the part of trial counsel or some not-so-subtle form of revenge on the part of the jurors," said Peter Freeman, a Chicago lawyer who moderated and helped coordinate the program.

All seven of the judges who either participated in or observed the proceedings said afterward, though, that they would have convicted Oswald in a bench trial.

## The Perfect Case

Despite the outcome, leaders of the ABA's Litigation Section, which sponsored the program, pronounced the two-day event a big success.

The exercise drew a huge turnout. It provided new insights into the assassination. And it gave lawyers and the public a better understand-

ing of the trial process and what aspects of a case are most likely to influence the outcome, they said.

"It was the perfect case to work with," said Chicago lawyer Theodore Tetzlaff, the outgoing chair of the section. "And we tried to make it as

electronically throughout the trial and displayed on a series of television monitors that lined the room. And the entire proceedings were televised nationwide by Court TV.

Prosecutors, in opening arguments, said they would prove once and for all that Oswald, acting alone, killed the president. "The only conspiracy in this case is the conspiracy to make money off the sale of books and movies," Cotchett told the jury.

One of their key witnesses was a ballistics expert who testified that bullets found at Parkland Hospital, fragments recovered from the president's limousine and cartridges taken from the sixth floor of the Texas School Book Depository all came from Oswald's rifle.

Defense lawyers said in their opening remarks that while Kennedy's assassination has been the most investigated killing in history, every item of evidence ever assembled against Oswald is still open to doubt.

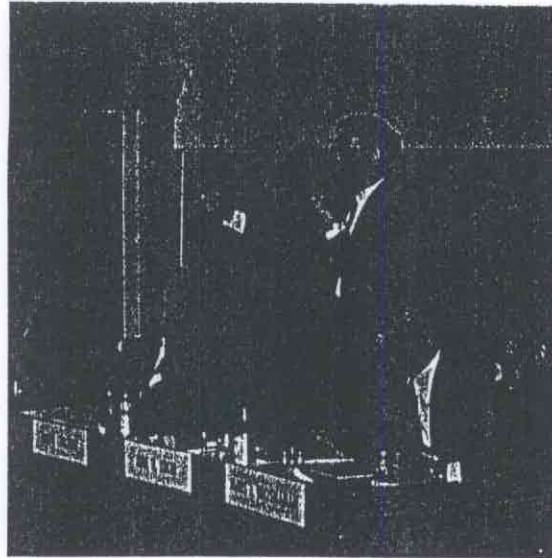
"Despite every effort, despite all the time and money spent investigating this case, the government still cannot put the pieces together in a way that you will be able to say, 'Aha, it fits,'" Barr told the jury.

A key defense witness was another ballistics expert who said the shots that killed Kennedy could not have come from the sixth floor of the school book depository. And a pathologist who reviewed the results of Kennedy's autopsy testified that the president's wounds had come from more than one gunman.

The section wasn't the first organization to tackle the same subject matter. Earlier this year, the Arts & Entertainment network, in a mock trial, found Oswald innocent.

And it wasn't an ABA section's first mock trial, although it was the most ambitious effort to date. Last year, the International Law and Practice Section tried Saddam Hussein for war crimes; the verdict was inconclusive. And two years ago, the litigators retried gangster Al Capone for tax evasion. He was acquitted.

—Mark Hansen



"Prosecutor" Joe Cotchett at the podium: Oswald acted alone.

realistic as possible."

The trial was based on the historical record, not the recent spate of books and movies supporting conspiracy theories in the assassination. It opened with the reading of a brief stipulation of facts, including Oswald's death at the hands of Jack Ruby two days after the president's killing. Actors played the parts of key witnesses, whose likely testimony was recreated from a variety of publicly documented sources.

The lawyers handling the case, however, were the real thing. Prosecuting Oswald were San Francisco attorneys Jim Brosnahan, Joe Cotchett and John Kecker. Representing the defendant were New York lawyers Tom Barr, David Boies and Evan Chesler. Two federal judges and a California state court judge took turns presiding over the trial.

The real star of the show, though, may have been the technology. Old evidence was enhanced by state-of-the-art reconstruction techniques and computer animation. The reactions of several lawyers, judges and shadow jurors were monitored

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The 1970's trial?

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