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Garrison Proves Only the Immunity of DAs

In New Orleans, there are those who say of Dist. Atty. Jim Garrison and his weird "solution" of the Kennedy assassination, "He's got something—at least he better have, or he'll be run out of town."

But a more realistic view, perhaps, is that if he does leave town it will be to go to Baton Rouge, La., or Washington, D.C., as governor or senator.

Those who have been outraged by the performance of the district attorney long for the day of reckoning when he will have to put up or shut up, but that day may never come, or if it does there will have been so many doubts created that nothing will be settled, at least in the popular mind.

The one thing that Garrison has demonstrated so far is a deplorable defect in our system of criminal justice, in that a prosecuting attorney is a law unto himself. He literally can do or say almost anything, and get away with it. For all practical purposes, he is immune from punishment.

He has accused a prominent New Orleans businessman, Clay Shaw, of conspiring with others to kill Kennedy. But even if it turns out that Garrison has no case against him, even if it should be shown that the charges were trumped up against him, the defendant will have little or no recourse against his accuser.

Police officials can be sued and dismissed for false arrest, and others can be sued for slander, but conscience is about the only restraint on district attorneys around the country.

There is a federal criminal law (Section 242, Title 18, U.S. Code) that carries a one-year sentence for public officials who wilfully deny a person's constitutional rights. But it has never been invoked against prosecutors.

There is also a federal civil law (Section 1983, Title 42) that permits money damages for the same injury. Yet as elected officials and court officers, prosecutors are apparently immune to such civil suits. As Time magazine has observed, "Not in living memory has any American prosecutor ever been punished in any way for falsifying or misrepresenting evidence."

Over the years the Supreme Court has reversed countless convictions based on the dubious tactics of unscrupulous prosecutors but the sorry truth is that the reversals usually occur long after the prosecutor has left office, and hence cannot even be punished by the electorate.

Sir Arthur Goodhart, the distinguished American-born

Oxford law professor (now retired) recently had this to say about the Garrison investigation, "There has been a lot of talk about trial in the newspapers, but that isn't true in this case. They must publish what the district attorney says. This is an example of trial by the district attorney, which is the most unfortunate feature of our American criminal law system."

Sir Arthur called Garrison "publicity drunk," and said he had discredited U.S. justice abroad. The question, however, is not what foreigners, but Louisianans, think of Garrison. It is clear that the district attorney, an obvious student of the late Huey Long, thinks he knows how to win friends and influence voters in his own state.

He is not even disturbed by the open scepticism of U.S. Atty. Gen. Ramsey Clark, who says he knows of no new evidence turned up by Garrison, and adds, "I will be very much surprised if any exists." The prosecutor's answer is, "I am running this investigation,

not the President, not the attorney general."

In the long run, Garrison may not fare well in the courts (if the cases ever reach trial), but he may still fare quite well politically, for the polls show that a majority of Americans now seem to believe that Kennedy was the victim of some kind of a conspiracy.

Moreover, in now directing suspicion toward the Central Intelligence Agency, the prosecutor also is on popular ground, for after the recent disclosures about the CIA, Americans are probably ready to believe even the most outrageous insinuations against the spy agency.

Garrison presently is keeping himself on the front pages by charging the CIA with "blocking" the completion of his investigation. "We have a stone wall there," he says. Is this going to be the ultimate alibi if the Garrison case collapses? Running against the CIA for a higher office is something that even Huey Long might have admired.

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