

Potential Jurors In Shaw Venue Quizzed Hearing

Jury panel members today began parading to the witness stand to tell whether they could give Clay L. Shaw a fair trial. By early afternoon, 10 had said yes, three had said no, and one didn't understand the question. The testimony came at a

hearing before Criminal District Judge Edward A. Haggerty Jr. on a motion by Shaw's attorneys to have his trial moved 100 miles outside New Orleans on grounds that widespread publicity has made it impossible for him to get a fair trial here.

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mann said conditions may change so much between now and the actual beginning of the trial that a new motion may be filed.

Those testifying during the morning and early afternoon that they could give Shaw a fair trial included:

Marshall McKinley, 4735 Loyola; Pasquala Polumbo, 2561 Madrid; Guy C. Harris, 6229 Caldwell dr.; Fred J. Schuber Jr., 39 Warbler; Carlos H. Kirby Sr., 136 Dan-

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SHAW, A 55-YEAR-OLD retired businessman, is charged with conspiracy in the assassination of President John F. Kennedy. District Attorney Jim Garrison charges Shaw plotted the Dallas slaying here with Lee Harvey Oswald and David William Ferrie.

Judge Haggerty plans to call 80 members of the jury venire by Wednesday in an effort to settle the change of venue question. But a Shaw attorney said today the whole hearing may be irrelevant.

The attorney, William Wegmann, said a new change of venue motion could be filed before the trial gets underway and today's hearing will be irrelevant if the trial is not held until April or May.

CITING RECENT U.S. Supreme Court decisions, Weg-

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ny dr.; Ernest J. Talbot, 3220 Plymouth; August Parker Sr., 2040 Caffin; James P. Cooney, 516 Soniat; Hamilton Neal, 8437 Apricot, and Richard P. Mansfield, 1469 Aphis.

THOSE WHO SAID they had already formed an opinion were excused by Judge Haggerty. Neither the state nor the defense was allowed to question them. The defense objected to this and filed a bill of exceptions.

Those in this category included:

John A. Terranova, 6700 Dorian; Rudolph McCormick, 3433 Benefit, and Oliver I. Williams, 4624 Rhodes dr.

One witness, Freddie Barry, 2707½ First, took the stand and was questioned, but Judge Haggerty decided he did not understand the legal questions involved and excused him.

Williams, the first witness called, was asked whether he could give Shaw a fair trial and said he could. But in response to another question, he said he believes Garrison's theories on the case.

Garrison did not appear in court today. The state's questioning was handled by Assistant DA James L. Alcock.

Shaw was in court with his battery of attorneys.

Judge Haggerty plans to question 80 jury venire members in all, 10 from each section of Criminal District Court. The defense had asked that all 1,300 persons listed in the jury wheel be questioned but this was rejected by the judge.

THE JUDGE HOPES to finish this process by Wednesday. Then both the defense and the state have the right to call more witnesses if they wish.

If the change of venue is denied, the trial could get under way before Judge Haggerty in April or May, when a new jury venire is available. The same prospective jurors cannot take part in both the hearing and the trial.

Members of the jury venire referred to Judge Haggerty's court by his fellow judges began lining up outside of the courtroom long before 10

a. m.

EACH INDIVIDUAL was checked off on a list at a table outside of the courtroom, then allowed to go inside.

Newsmen were kept out of the court until members of the jury venire subpoenaed had been seated.

Then only a few reporters entered and sat in the back rows.

Shaw and his attorneys entered the court about 10:10 and Judge Haggerty, who already was on the bench, started proceedings.

"I wish to thank my brother judges for cooperating in selecting 10 jurors for this court," said Haggerty.

HE TOLD THOSE subpoenaed that they were not called as jurors in the trial of Clay Shaw. Rather, said the judge, they were there for the sole purpose of determining whether Shaw could get a fair trial in New Orleans.

"You will be questioned by myself and by the counsel for the defense and for the state," said the judge.

He said the only question was:

"Would you be able to give Clay L. Shaw a fair and impartial trial?"

He said the case is based only on the bill of information from the Orleans Parish grand jury.

"WE ARE NOT TRYING the Warren Commission. We are not trying the CIA. We are not trying the FBI."

The judge then read the bill of information which states in part that Clay L. Shaw "wilfully conspired" to murder the late President John F. Kennedy.

He said the bill was handed down March 22, 1967.

"I would assume you have read, heard or seen something about this case involving Clay L. Shaw," said Haggerty to the panel members. He pointed out however that in a jury trial the prosecution is required to prove guilt "beyond a reasonable doubt."

He told the venire that information that appears in the press "may be true but may be irrelevant."

The judge said, "Press information is unsworn, uncon-

firmed and uncontradicted."

"What we are trying to find out is whether if you were selected, could you put out of your mind what you have heard, seen and read and make the decision on what is presented . . ."

HE THEN OUTLINED a

plan for the questioning of the venire members which called for 30 persons to appear today, 30 more tomorrow and 20 on Wednesday.

Alcock then asked to approach the bench and after a conference involving the judge and defense attorneys, Haggerty announced that he would approve an alternate plan that calls for 40 witnesses to be called today and 40 tomorrow.

He also said there would be a request for sequestration of witnesses.

William Wegmann, one of the attorneys for Shaw, told the judge, "I would like the court to instruct the witnesses what sequestration means."

HE POINTED OUT that the press will report the proceedings and ask Judge Haggerty to instruct the witnesses not to read the press reports.

Haggerty agreed, commenting, "I often wonder what good sequestration is when the witness can read it in the paper."

Nonetheless, Haggerty instructed the witnesses not to read about the case or watch TV reports of it.

The court crier then began calling the names of witnesses who were to be questioned today. The rest were to be released until tomorrow.

Those called included: From Sec. A: Warren L. Carragan, 908 Belleville; Lloyd A. Caruso, 1707 Richland rd.; Cooney; Harold R. Johnson, 147 28th st.; Newman T. Johnson, 3923 Annunciation; George J. Kehoe, 1421 S. Peters; Kirby; Mansfield; McCormick; James A. McLaughlin, 2925 Eads; Schuber.

Section B: Donald S. Miller, 1230 Harmony; Williams; Conrad E. McCarthy, 4910 Berkly dr.; Barry; Bernard H. Farr, 5382 Pasteur bld.; Roland J. Ayo, 5010 S. Claiborne, Apt. A; Henry L. Diebel, 1319

Dante; Hugh J. Farnet, 4485 St. Roch; Joseph V. Waddell Jr., 2016 Lapeyrouse; Walter E. Keys Jr., 6061 Gen. Diaz; Avie Richard, 407 S. Broad.

Section C: Wilburn L. Abel, 1440 Chartres; Willie Samuel, 3519 Eagle; Lucien Roy Austin Jr., 3129 Frenchmen; Rudolph A. McLeod, 5029 Columbia; Joseph Andrew Massey, 4726 Ramsey dr.; McKinley; Parker; Henry Roland Coce- ham Jr., 223 22nd st.; Edouard Menard Ferrier, 1210 Cal- houn; Talbot.

Section D: Louis Thomas Aites, 2025 Congress; Louis P. Dewenter Sr., 5322 Maga- zine; Walter Feltman, 4101 Norman Mayer; Lawrence Jo- seph McAllister, 1202 Louisa; Harry Joslin O'Neill, 5617 Marshal Foch; Joseph Daniel Hauer, on Seventh st.; Wil- liam Hall, 841 Burgundy; Har- ris; Thomas Harvey, 2115 Peniston; Paul Irby Joffrion, 6103 Laurel; George Sartis, 3210 Somerset dr.

Section E: Emmiett Hagan, 1334 Flood; Willie M. Harri- son, 508 Socrates; Herbert J. Meyers Sr., 2719 St. Peter; Charles J. McClelland, 5340 Marigny; Edward W. Fort- ner, 5011 Piety; Jack Klutz, 823 Hidaigo; Nicholas J. Cal- ico, 823 Franklin; John J. Meyer, 110 Sherwood Forest dr.; Norman P. Baquie, 936 Andry; Charles J. Nait, 1125 Southlawn blvd.

Section F: Douglas Allen, 6406 N. Tonti; Felix Anthony De Genova, 5075 DeBore Cir- cle; Sam Anthony Ganci, 2423 Hyman pl.; David J. Meil- leur, 2218 Bartholomew; Pe- ter Joseph Miller, 4738 Maid Marion dr.; Palumbo; Les- ter B. Shapiro, 449 Audu- bon; Warren Smith, 4140 Pa- ris; James Taplin, 807 Har- mony.

Section G: (No addresses given.) Daniel J. Granier, James Edward Faull, Fred- erick Hotstream, Warren G. Aicklen Jr., Paul E. Bass, Salvatore J. Uli, William C. Byrnes Jr., Harold Anthony Bourgeois Jr., Milan King Yager, Joseph M. Impastata.

Section H: Gennady K. Ba- benko, 1226 Camp; Leon L. Landry, 717 Leontine; Ray- mond H. Batey, 4930 Marion dr.; Terranova; Anthony J. Bartlett, 4005 Delgado; Mur- phy George Sanchez Sr., 4525 St. Anthony; R. L. Williams, 5627 Pratt dr.; John G. Schoen, 7331 Beryl; Byron L.

Kane, 3611 Herald; Albert J. Anderson, 3300 Trafalgar.

After the 40 names had been called, the second 40 were dismissed until tomor- row morning. Of those called, 32 were excused until 1 p. m.

The first witness to be called was McKinley, 70, a Negro. McKinley was asked by Judge Haggerty if he had read anything about the charge against Shaw.

McKinley said, "I've read about it."

Judge Haggerty then ask- ed, "Have you formed a fixed opinion in your mind as to whether Mr. Clay L. Shaw can get a fair trial?"

BEFORE M'KINLEY could

answer the question, Defense Attorney William Wegmann objected, saying that the judge was influencing the wit- ness's testimony by the way the question was put.

Wegmann said that whether this man says he has a fixed opinion is not relevant.

Wegmann, citing a number of U.S. Supreme Court deci- sions, said that the fact that you can get a jury now is not relevant. He said that in a number of cases it had been shown prospective jurors had testified that they could give an impartial hearing when, in fact, they could not.

He also said the fact that the court might be able to ge t a jury now is not relevant be- cause conditions could change before the case actually comes to trial.

Wegmann said it could be necessary, if the trial is held of until May or April, to file a new change of venue mo- tion later (under the law, the defense has until two days be- fore the trial to file a change of venue motion. If the cur- rent change of venue motion is overruled, the defense still cal file another one until two days of the trial date.)

The judge overruled the ob- jection and said he was go- ing to proceed and Wegmann took a bill of exceptions.

THE JUDGE ASKED Mc- Kinley, "If you were called to be a juror, could you give a fair trial to Mr. Shaw?"

McKinley answered, "I could."

"Do you understand that the trial must be based on what happens in court?" the

judge asked.

McKinley answered, "Yes."

Under questioning, McKin- ley said he is retired, that he has been on a jury panel but never has served on a jury.

The judge then told the de- fense they could examine Mc- Kinley and Wegmann said, "These are not our witnesses . . . I don't know why we should question the witnesses before the state."

THE JUDGE ORDERED the defense to question the witness first and Wegmann took a bill of exceptions.

F. Irvin Dymond, chief de- fense attorney, then proceed- ed to ask McKinley if he were a native of New Or- leans.

Under questioning by Dy- mond, McKinley said he had been in the city since he was 10 years old, that he can read and write, that he lis- tens to television news "most every night," that he never has read a book called, "Rush to Judgment" or seen a movie by that title and that he sometimes reads old magazines but subscribes to none.

ASKED IF HE subscribes to local newspapers, he said, "Yes, I get The Picayune every morning."

Asked if he reads the pa- per, McKinley replied, "If anything interests me, I read it . . . I don't read every- thing."

Dymond then asked McKin- ley if he had formed any opinion as to whether Lee Harvey Oswald acted alone in the shooting of President Kennedy.

At this point Alcock ob- jected and Haggerty sustain- ed him.

DYMOND ASKED THE judge, "Aren't you even going to hear my argument?"

The judge said for him to speak up and Dymond said that if a prospective juror has made up his mind that a conspiracy existed then the state will not have to prove to him that part of its case.

The judge said that he was not interested in any Dallas events, only in a New Or- leans conspiracy, and he con- tinued to sustain the objec- tion. Dymond took a bill of exceptions.

Dymond then asked McKin-

ley, "Do you have any fixed opinion as to whether there was a conspiracy between Da- vid Ferrie, Lee Harvey Os- wald and Clay L. Shaw . . ."

Alcock entered an objec- tion. The objection was over- ruled by Haggerty and Dy- mond was allowed to finish his question.

" . . . and any other per- sons?"

"I HAVE NO OPINION about that at all," said Mc- Kinley. "I don't believe he did it by himself."

Q. "Have you ever heard Mr. Garrison speak on TV concerning Clay Shaw?"

A. "Yes, I've heard him."

At this point Alcock objec- ted to the line of questioning but William Wegmann con- tended that there was no time limit on the cross-examination of a witness, that "We're able to pursue the questioning all day . . ."

to pursue it if it is irrele- vant and that is my objec- tion," countered Alcock.

Dymond then asked the question again.

"Have you ever heard Mr. Garrison talking on TV con- cerning Clay Shaw . . ."

A. "A couple of times I heard him. I didn't even re- member what he said now."

Q. "You do believe at this time Garrison's theories on the Clay Shaw case?"

A. "Yeah."

Q. "And you would have to be convinced he is wrong?"

A. "I would have to be con- vinced."

ALCOCK THEN TOOK up the cross-examination of Mc- Kinley. He asked McKinley if he could give Shaw a fair trial.

A. "I think he would get a fair trial."

Asked if he would pass judg- ment on Shaw, McKinley said "No, I couldn't but I think he could get a fair trial. I couldn't judge him."

Q. "If the court failed to carry the burden of proof, you wouldn't convict him, would you?"

A. "I couldn't."

Q. "Do you have an opin- ion that Clay Shaw is guilty?"

A. "I couldn't say that."

THE NEXT WITNESS was

Polumbo, a 57-year-old native of Brooklyn, N. Y., who has lived in New Orleans since 1945. He answered in the affirmative when Haggerty asked if he had read and discussed the trial and if he had been a juror in a criminal case.

"Having served on juries, I am sure you have been instructed that the burden of proof is on the state," said Haggerty.

A. "Yes sir."
Q. "Tell us whether you have fallen into a fixed opinion as to the guilt or innocence of Clay L. Shaw."
A. "No."

DYMOND THEN OBJECTED to the word "fixed" in the question and Haggerty then rephrased the question.

O. "Have you formed any opinion fixed or not on the guilt or innocence of Clay L. Shaw?"

A. "No, sir."
Q. "If you were called as a prospective juror, would you try the case like any other case?"

A. "Yes, sir."
Q. "Could you give . . . a fair and impartial trial and require the state to prove its case beyond a reasonable doubt?"

A. "I could."

WEGMANN THEN TOOK OVER the questioning, asking Polumbo if he had read stories in connection with the charges against Shaw.

"You couldn't miss it," said Polumbo.

Polumbo then answered no to questions from Wegmann as to whether he had read a Garrison story in Playboy Magazine, a Garrison story in Ramparts Magazine or the book "Rush to Judgment."

Polumbo testified that he had not seen the movie or attended a lecture by Mark Lane, author of the book.

Dymond asked Polumbo if "as an individual you have an opinion" concerning the case.

A. "Yes, sir."
Q. "You as an individual have an opinion as to whether Clay Shaw conspired with David Ferrie and Lee Harvey Oswald to assassinate the president?"

A. "I have no such opin-

ion."

After further questioning, Polumbo told Dymond that he had no opinion in the case.

THE NEXT WITNESS was Harris. He said he had served as a juror more than 10 times. Judge Haggerty asked Harris if he had "formed an opinion as to the guilt or innocence of Clay L. Shaw."

"No," was the reply.
Q. "If you were to be called on the trial of Mr. Clay L. Shaw could you give a fair and impartial trial?"

A. "I believe so, yes. Just as I believe I've done in the past."

Dymond then took over the questioning.

Q. "Do you watch TV news broadcasts?"

A. "Yes."
Q. "Have you heard Mr. Garrison speak on the subject on TV?"

A. "Yes, I have."
Q. "Have you heard Mark Lane . . . ?"

A. "No."
Q. "Mort Sahl?"

A. "I'm completely unfamiliar . . ."
Q. "Did you read the article on Clay Shaw in Playboy Magazine?"

A. "No, I didn't."
Q. "Has the publicity . . . affected your thinking in any

way?"

A. "I don't think so, Mr. Dymond. I don't feel so."

HE WAS THEN asked by Dymond if he as an individual, not as a potential juror, had an opinion in the case.

A. "As an individual right now, I don't think I have any opinion as to the validity . . . I haven't given it any thought myself. I don't anticipate any bridges until I get there."

Q. "Is there any particular opinion you would have to get rid of . . . ?"

A. "I believe I would have to have some facts of which I have none. I've been on juries before."

He was then asked if any of the publicity on the case had made any impression. Harris concluded that, "Yes, it affects you" but that the juror should be able to put it aside.

Q. "You would be hopeful that you would be able to

cast it aside?"

A. "Yes."
Q. "But you admit that you do have an opinion?"

A. "Yes, I don't know how much in depth . . ."

Q. "You believe you could overcome any opinion?"

A. "Yes."
ALCOCK THEN ASKED Harris if he as a juror would require the state to prove its case beyond a reasonable doubt.

"Yes, sir," was the reply. Schubert, the next witness, also testified that he could give Shaw a fair trial. He told Judge Haggerty that he had served on juries twice in the past.

Q. "From what you have seen and read do you have any opinion or impression on the guilt or innocence of Clay Shaw?"

A. "No, sir."

Judge Haggerty: If you were to be called as a juror, could you, irrespective of what you have read, heard or seen, give this defendant a fair trial?

Schuber: "Yes."
Judge Haggerty then turned the witness over to the defense for questioning.

Dymond: "Did you read about the case in The Times-Picayune and the New Orleans States-Item?"

Schuber: "Yes."
Dymond: "Do you read Ramparts magazine?"

Schuber: "No, I have seen it but I do not read it."

Dymond: "Did you read a book called, 'Rush to Judgment'?"

Schuber: "No."
Dymond: "Did you see the movie?"

Schuber: "No."
Dymond: "Would you say you have been unimpressed or have you formed an opinion?"

Schuber: "I have formed no opinion as to the guilt or innocence at this time."

There then followed an argument between Dymond and Alcock regarding the difference between court opinion and court expression.

Alcock charged that the defense had been using the two words interchangeably. Alcock charged that the two are very different in meaning.

Judge Haggerty interjected that anyone who has reached the "age of reason" can form

an opinion.

"ANYONE WHO HAS reached the age of reason," asserted Haggerty, "and who can read forms an impression of what he has read."

Haggerty said that the first impression doesn't remain a lasting impression.

Dymond denied that the defense had used the two words, opinion and impression, interchangeably as Alcock stated.

On the contrary, he said that the defense had used the words discriminately.

The fifth witness called to the stand was Terranova, who said that he is a native of New Orleans, is 43 years old, is employed in the shipping department of American Can Co. and has served on one jury.

TERRANOVA SAID that he has formed "somewhat of an opinion."

Under questioning by Alcock, he said he would require the state to prove its case beyond a reasonable doubt.

The sixth witness called was Barry, who said he is a retired former Veterans' Administration employe, a native of St. Charles Parish and that he had not served on a jury before.

Judge Haggerty asked him some of the same questions he had asked other witnesses and, because Barry apparently did not understand the nature of the questions, he was excused without giving the defense or the state an opportunity to question him.

AFTER TWO MORE witnesses testified, in general, that they felt they could give Shaw a fair trial, the court recessed for lunch.

OVER THE weekend, the convention of the National District Attorneys Association here came to an abrupt end as Garrison canceled the group's banquet. It had been scheduled for Saturday night.

Garrison, who was chairman of local arrangements for the convention, canceled the dinner in a huff when the group told him he could not use the banquet as a public forum for his Kennedy assassination probe.

GARRISON WAS TO have been the principal speaker at the banquet. Association president William J. Raggio of

Reno, Nev., said his group, reluctant to be drawn into the Garrison probe in any way, asked him not to make the banquet speech after learning that he planned a sharp attack on federal courts.

Last week, Garrison addressed the group at a regular session and attacked federal district court judges here for their decision to enjoin his office from subpoenaing Life magazine reporter David L. Chandler to testify before the Orleans Parish Grand Jury.

Chandler's attorney filed a motion asking that federal district court cite Garrison for contempt. A hearing on this motion is scheduled for Wednesday.

ALLEGEDLY, GARRISON wanted to question Chandler in connection with an organized crime probe. But, in his speech to the DAs, Garrison said the failure to get Chandler was another attempt by the federal government to block his assassination probe.

Over the weekend, Garrison accused the DAs association of trying to censor his planned remarks.

Raggio said, "His actions were completely irrational. In the first place, it wasn't his banquet. The banquet was one of the things covered by the \$50 registration fee paid by each delegate."

Today, the association figures that Garrison owes each delegate about \$8, the price per person for the banquet.