

IMPARTIAL. SAY 17 OF 23

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Most Quizzed in Hearing Vow Fair Trial for Shaw

Most jury panel members continued to testify today that they believe they could give Clay L. Shaw a fair trial on charges of conspiring to kill

President John F. Kennedy. By early this afternoon, 23 had taken the stand today. Of these, 17 told Criminal District Judge Edward A. Hag-

gerty Jr. they could render an impartial verdict. Five said they could not and were immediately excused. Another was dismissed because of his age. He is 83.

JUDGE HAGGERTY is conducting a hearing on a defense motion to move Shaw's trial at least 100 miles from New Orleans on grounds that widespread publicity has made it impossible for the defendant to get a fair trial here.

Today's witnesses made the box score, including the 40 persons who testified yesterday, as follows:

Those claiming impartiality

—51.

Those with fixed opinions—

10.

Undecided—2.

TESTIMONY ELICITED by the judge, defense attorneys and the state revealed wide variations of opinion within these categories, but the judge ruled the 10 dismissed were too fixed in their opinions to qualify.

Many of the others testified they had heard and read about the case, and some said they had formed opinions as to Shaw's guilt or innocence or whether a conspiracy existed to kill the President.

But all 53 insisted they

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could render an impartial verdict based on the evidence and were accepted by Judge Haggerty. However, the judge has said in the past that they will not be used as actual jurors. The jury for the trial itself will be chosen from a new venire in April or May.

WALTER FELTMAN, 4101 Norman Mayer, told the judge he had "my own opinion based on what I have come upon." But he said he could render a verdict based on the evidence presented in court.

Lester B. Shapiro, 449 Audubon, asked if he had an opinion in the case, said.

"Yes, I do. I know Mr. Shaw . . ."

The judge cautioned him not to say what the opinion was. Asked if he could give a fair verdict, he said:

"I believe I could be fair and impartial, but they would certainly have to prove he is guilty."

At one point this morning, Judge Haggerty ruled out a line of questioning from the defense about Perry Raymond Russo, the state's star witness in a preliminary hearing for Shaw.

Russo testified then that he heard Lee Harvey Oswald and David William Ferrie plot the President's death with Shaw here in September, 1963.

DEFENSE COUNSEL F. Irvin Dymond was questioning a witness about his opinion of Russo's veracity but the judge stopped it, contending the only relevant point is whether the witness could give Shaw a fair trial.

Shaw, a 55-year-old retired businessman and playwright, was charged more than a year ago in the probe initiated by District Attorney Jim Garrison. The DA was absent again today and the state's questioning was handled by assistant DA James L. Alcock.

Judge Haggerty dismissed the first witness this morning after he testified that he already had formed an opinion in the case.

As was the case yesterday, Dymond took a bill of excep-

tion, contending that he should have a chance to cross-

examine the witness.

THE FIRST WITNESS was Raymond H. Batey, 4930 Marion dr., an employe of a life insurance company, who said he had never been a juror.

He was excused after only two questions from the judge.

Batey testified that he had read or heard material concerning the Shaw case. He was then asked by Judge Haggerty, "Have you formed an opinion?"

"Yes, sir," was the reply.

Judge Haggerty then said, "You are excused."

William C. Byrnes Jr., 4467 Spain, a printer who served as a criminal court juror last year, testified that he has not made up his mind on the case and could give Shaw a fair trial.

AS WAS THE CASE yesterday, each juror today was first questioned by the judge, then cross-examined by attorneys for Shaw and the state.

Byrnes was asked by Judge Haggerty, "If you were selected for a juror, do you think you could give Clay L. Shaw a fair and impartial trial?"

"I do," was the reply.

Dymond attempted to get Byrnes to testify that, although he might not have a fixed opinion on the case at this time, he did have some ideas or impressions about the case because of the publicity connected with it.

Byrnes testified that, although he might have some impressions, he had made no decision in connection with the case.

FINALLY, ALCOCK asked Byrnes, "You have no opinions to the guilt or innocence of Mr. Shaw?"

"That is correct," said Byrnes.

Prior to the first witness taking the stand this morning, Dymond sought to have the procedure for questioning changed.

All day yesterday, the judge questioned the witnesses, then the defense cross-examined.

Dymond today wanted the state to cross-examine first and the defense to question the witness later.

JUDGE HAGGERTY denied

the motion, contending that the burden is on the defense to prove the need for a change of venue and that the defense has the opportunity to fully cross-examine each witness.

Dymond took a bill of exception to the ruling.

At the start of the second day of hearings, Judge Hag-

gerty told the jury venire, which had been assembled in the courtroom, that he expected to question 12 witnesses this morning and 28 more this afternoon.

The next witness was Sam A. Ganci, 2423 Hyman pl., Algiers. He said in response to Judge Haggerty's questioning that although he had heard about the case, he had no fixed opinion as to Shaw's guilt or innocence.

UNDER QUESTIONING by defense attorney William Wegmann, he said he had read about the case in the newspapers and had seen Garrison on television, including the Johnny Carson Show, and part of a documentary. However, he said he hadn't read any magazine articles or books concerning the case.

He said he did not read or watch television reports about the preliminary hearing of Shaw.

Asked whether he had any opinion or impression about the case, he replied, "None whatsoever."

Following Ganci's testimony, Conrad E. McCartney, 4910 Berkley, Algiers, told Judge Haggerty that, although he had read newspapers and had seen television programs concerning the case, he had no opinion about it and could render an impartial verdict.

IN RESPONSE TO a question by Dymond as to whether he had some impression or opinion from discussions and reading about the case, he replied, "I do not have an opinion but I recognize that anyone reading anything could have a subconscious opinion."

McCartney told Alcock that he had no conscious opinion and that he could be an impartial juror.

Warren Smith, Negro, 4140 Paris ave., told Judge Haggerty that he had a fixed opinion about the case. Judge Hag-

gerty phrased a question about having a fixed opinion differently and Smith replied, "I couldn't give a fair trial because I have too many thoughts on the subject."

In response to another question, he said that he had read and seen too much concerning Shaw's upcoming trial.

HAGGERTY ASKED, "You mean you couldn't be an impartial juror and judge this case like you would any other."

"Your honor," Smith said, "this case is extraordinary. It's been in the news and that would interfere with my constructive thinking on the matter."

"You're excused," Judge Haggerty said.

Under questioning by Judge Haggerty, Frederick F. Hotstream, 7118 Perrier, said that he had no impression on the case and could be a fair juror.

He said that he had read about the case in the newspapers, watched it on television and had read the Playboy magazine issue with a Garrison interview but had skipped that article.

Under questioning by Dymond, Hotstream said that he had an opinion but that it could be changed by evidence.

Alcock asked him, "Wouldn't you just try the case on the facts?"

"Right."

"You haven't heard enough facts to try the case, isn't that right?" Alcock asked.

"Right."

He was excused.

Louis T. Aites, 2025 Congress, who said he has lived in New Orleans for 12 years and served on a jury last week, testified that he could give Shaw a fair trial, if chosen as a juror.

ON CROSS-EXAMINATION, Aites testified that he had read none of the books nor seen any of the special television programs concerning the case.

As with other witnesses, Dymond attempted to establish the difference between a fixed opinion and a potential juror having an impression or an opinion that could be changed by testimony.

When Aites insisted that he would have to hear the evi-

dence before he could make a decision in the case, Dymond asked him about a personal opinion right now.

"You have a personal impression that could be overcome by the evidence?" asked Dymond.

"Yes, I would say so," the witness replied.

ALCOCK THEN asked Aites, "You have no opinion one way or another as to the guilt or innocence of Mr. Shaw, isn't that right?"

"No, I don't," said the witness.

The next witness was Albert J. Anderson, 3300 Trafalgar, who also testified that

he could give Shaw a fair trial.

Dymond asked Anderson if he believed the testimony of Russo.

ANDERSON SAID he had an opinion about Russo's testimony but changed it.

"What changed your opinion?" asked Dymond.

"Well, my son went to school with this boy . . ."

AT THIS POINT, Haggerty stopped the questioning, contending that the only thing that mattered in the change of venue hearing is whether the witness can testify that he could give Shaw a fair trial.

After some legal argument, Dymond asked the witness, "Do you have an opinion either way as to whether Perry Russo was telling the truth?"

"No," was the reply.

AFTER SOME MORE questions, Dymond noted, "Your testimony changes from an opinion on Perry Raymond Russo to no opinion at all."

Wilburn L. Abel, 1440 Chartres, an engineering company supervisor, was dismissed by the judge after he testified that he had a definite opinion as to the guilt or innocence of Shaw.

The next witness was Norman P. Baquie, 936 Andry, a bank clerk, who said he had

served as a juror. Baquie testified that he had no fixed opinion as to the guilt or innocence of Shaw and felt that he could give the defendant a fair trial.

He also was asked his opinion on the veracity of testimony by Perry Russo.

ALCOCK OBJECTED when Dymond asked Baquie if he had an opinion as to the truthfulness of Russo's testimony.

Dymond jumped up, contending that the state's case in the preliminary hearing was "based 90 per cent on Perry Raymond Russo's testimony."

Judge Haggerty countered, "you can't make this statement . . ." Dymond contended "He was the only witness that testified concerning an alleged conspiracy meeting involving Shaw."

Judge Haggerty sustained Alcock's objection.

Donald S. Miller, 1230 Harmony, told Judge Haggerty that he had a fixed opinion about the case and did not feel he could serve as a juror.

AFTER THE JUDGE excused Miller, Paul E. Bass, Negro, took the stand and said that he had no opinion and could render a fair and impartial verdict based on evidence.

Under questioning by Dymond, he said, "I have heard so much, read so much, I

can't make up my mind." Bass said, "I just don't know what to think about it" and that he could "go into it with an open mind."

Following his testimony, Judge Haggerty recessed the court for lunch.