

RUSSO DENIED SHAW AT PARTY--OFFICER



—Photo by The Times-Picayune.
HANDWRITING EXPERT Charles A. Appel Jr. leaves the area of the Criminal Courts Building Wednesday after completing testimony in the Clay Shaw trial.

T.P. 2/27/67
Lt. O'Donnell Testifies About Interview

A veteran New Orleans police officer testified Wednesday at the trial of Clay L. Shaw that in June, 1967, Perry Raymond Russo told him Shaw was not at the mid-September, 1963, party at the apartment of David L. Ferrie.

Lt. Edward M. O'Donnell, who is assistant commander of the homicide division and has been on the force for 17 years, made the statement after being called as a witness for the defense.

Shaw is standing trial on a charge that he participated in a conspiracy to assassinate President John F. Kennedy. The conspiracy allegedly involved Shaw, Ferrie and Lee Harvey Oswald.

Shaw is expected to take the witness stand Thursday.

Lt. O'Donnell said that he interviewed Russo — the state's star witness—June 19, 1967, and during the course of his conversation he asked Russo why he testified as he did during the preliminary hearing three months earlier.

Lt. O'Donnell said: "He told me that when he got to court (for the preliminary hearing) he came with all intentions of telling the truth and you (F. Irvin Dymond, chief defense attorney) turned him on by asking if he believed in God, and this was a sensitive point for him, and after you, as he said, turned him on, he decided he was going to bury you."

"Bury me," asked Dymond. "Yes," Lt. O'Donnell replied.

'Garrison Was Told of Statement by Russo'

Lt. O'Donnell said that as soon as he completed his interview with Russo he immediately went to the office of District Attorney Jim Garrison and reported to him and James L. Alcock, the chief prosecutor in the Shaw trial, what Russo had told him.

Lt. O'Donnell was undergoing cross examination at 5:35

p. m. when Judge Edward A. Haggerty recessed the trial until 9 a. m. Thursday.

Immediately before Lt. O'Donnell's appearance, Mrs. Jesse Garner, the former landlady of Oswald in New Orleans, testified that Ferrie came to her home either the night of the assassination or the night after.

Mrs. Garner, 4911 Magazine, Cont. in Sec. 1, Page 14, Col. 1



LT. EDWARD M. O'DONNELL
 Quotes Russo interview.

Continued from Page 1

was another of five defense witnesses called Wednesday as Shaw's attorneys attempt to batter down the state case.

Called presumably to testify about Oswald's appearance, dress habits and behavior, Mrs. Garner was shown photographs of Oswald and Ferrie. She also testified she never saw Shaw prior to his arrest in March, 1967, and never in person until last week.

When she was shown Ferrie's picture she said she recognized him as a man who came to her home shortly after the assassination.

Oswald lived in an apartment in the same building as Mrs. Garner. She said a lot of people, mostly federal agents, were in and out of her home immediately after the assassination.

She said Ferrie arrived, and after a few minutes, when she determined he was not there on official government business, she asked him to leave. She said he was alone.

Ferrie reportedly left the city the afternoon of the assassination when he said he went to Houston.

Other witnesses called included James Phelan, free-lance magazine writer, who said on direct-examination that Russo, after the preliminary hearing, backed out of a meeting with Shaw, though Shaw agreed to it. Phelan said Russo told him he wanted to be sure Shaw was the man he claimed he was.

Phelan alleged Russo told him the reason he backed away was "if word got back to Jim Garrison, he would clobber me."

Later, testified Phelan, Russo told him that he lied about the reason. Phelan quoted Russo as saying that "the reason I didn't was that if I got into a room with Shaw, I would know it was not him."

Phelan said Russo told him he could run some where "but I could never run from myself."

Handwriting Expert Testifies of Signature

Charles A. Appel Jr., a retired handwriting expert for the Federal Bureau of Investigation, testified the signature "Clay Bertrand" on the guest register at New Orleans International Airport was not written by Shaw.

A state witness earlier testi-

fied she saw Shaw sign the name.

Also, Jefferson Biddison, a real estate man and long-time friend of Shaw, who handled Shaw's mail while Shaw was in Europe in 1966, appeared. Biddison said he received no mail during the period addressed to either a Clem or Clay Bertrand. A postal worker testified he delivered mail to the Biddison address during this period addressed to Clay Bertrand.

Much of Phelan's testimony and cross examination concerned a memorandum written by assistant district attorney Andrew M. Sciambra following Sciambra's initial interview with Russo.

The "Sciambra memo" did not mention a conspiracy meeting, as Russo later testified during Shaw's preliminary hearing and during the current trial.

The meeting allegedly took place at Ferrie's apartment on Louisiana ave, pkwy. during mid-September, 1963.

Appel, Biddison and Phelan were called during the morning session, but only the questioning of Appel and Biddison was completed.

Appel, who was qualified as an expert in the field of handwriting prior to the trial's recess Tuesday, was the first witness called.

On direct questioning by Dymond he told the court that he examined photographic samples of Shaw's handwriting as well as a photographic reproduction of the Clay Bertrand signature found in the Eastern Air Lines VIP register.

He said that he performed examinations and comparative tests on the handwriting samples to determine the written motion habits which causes the design of letters.

He said the first thing he did was to copy the design of the signature from the register "so as to make sure I was receiving the hand movements."

He said he also did this with a "Clay Bertrand" signature signed by Shaw "to compare each and every design caused by the motion of the pen."

He said that Shaw writes larger than the person who signed the register, and that the proportion of one letter size to another is larger in Shaw's handwriting, and pointed out that the "C" in the register was smaller than a "C" in

Shaw's writing.

Expert Points Out Differences in Letters

Appel, using a blow-up photograph of the signature with a blow-up of a sample of Shaw's writing of "Clay Bertrand," then went through each letter of

the handwriting samples and pointed out differences between the two.

He asserted that Shaw leaves his "a's" open whereas the register signature had a closed "a" saying "the writing act is such a delicate act of movement coordinating hands, fingers, and arm with the direction of the eyes that all of these things have to be the same to produce the same design."

He characterized Shaw's handwriting as being done rapidly "in what some teachers would call a scribbling fashion," and said there was a completely different style of writing between the two signatures.

After going through each letter, Appel said, "It can be seen these are distinctive forms; neither of these entries are carefully composed," and he added that in making copies of signatures, "it is necessary to make much slower movements."

Of the "Clay Bertrand" signature in the register, he said: "It is more formal, slower, but nevertheless natural to the person doing the writing. Because of these differences, I concluded they were not written by the same person."

Dymond asked Appel if he confined his study to just one sample of Shaw's handwriting, and he said his study included "a good many other" samples, some written in 1966. "And then I asked that he be requested to write on a number of sheets, each independent of the other so he could not see the writing on the previous sheet."

Dymond asked what these comparisons revealed, and Appel replied: "The entry in the book was made by some other writer entirely."

He said that the various samples of Shaw's handwriting which he studied showed no significant differences, "just natural variations."

"Did you come to a firm con-

viction?" asked Dymond.

"Yes, I did."

"And what was that, Mr. Appel?"

"That the defendant Shaw did not write the entry in the book."

On cross-examination, Alcock asked Appel if he had occasion at any time to do similar handwriting studies for the Federal Bureau of Investigation in connection with the assassination of President Kennedy.

Appel said he had not and that he has not been employed by the FBI since the end of 1948 when he retired. He said he has been receiving a federal pension since then.

Examination Made Entirely with Photos

Alcock asked if his examination consisted entirely of analysis of photographs, or if he studied the original samples. He said photographs were used. Alcock asked if, as a general practice, it would not be more desirable to have original samples.

Appel said it is always better to have originals, but it is not necessary.

He said he examined all originals of Shaw's handwriting after he arrived in New Orleans, and that he saw the questioned signature in the register for the first time when it was shown to him on the witness stand.

"You did point out, though, that it is better to see the originals, did you not?" asked Alcock.

"It is not necessary at all if the evidence concerns design of letters, and these (the photographs) showed very well, so there was no problem."

He told Alcock that, in the case of a suspected forgery, it is necessary to obtain the original because the forger does not move the pen continuously, but rather very carefully "and this produces a tremor, and the pen is removed from the paper and replaced."

Alcock asked whether Appel saw Shaw write the signatures, and Appel said he did

not, but he asked that they be written a certain way and assumed that was the way the signatures were written.

He told Alcock he asked that the signatures be written with Shaw seated in a normal writing position, and he asked him to write the content of the entry in the register. After Shaw did this, the paper was removed, and he was asked to do it again, until finally he had repeated the process 10 times, providing 10 different handwritings of the same signature.

Alcock asked Appel if he knew whether the person who signed "Clay Bertrand" in the register was seated or not, and Appel said he did not know, and he said in answer to later questions that there is no great variation in a person's handwriting whether he is seated or not, the letter forming remains essentially the same.

"Then why did you have him seated?"

"Because people learn to write seated," answered Appel.

1966 Letter Examined, Appel Tells Court

Appel said he also examined a letter Shaw wrote to one of the Wegmanns in 1966. Alcock asked to see it and, after reading it, asked how he concluded that it was written in 1966, since it was not dated.

"I was told it was taken from the files of Mr. Wegmann," he replied, and said later he received several samples of Shaw's signature in writings made in 1966.

"Did you make your conclusion prior to seeing the original documents?"

"I did."

Appel later told Alcock that no two signatures are exactly alike, "even though one is written right after the other."

There was a recess; and following it, Alcock resumed his cross-examination. He asked Appel how he selected the particular Shaw signature of the name "Clay Bertrand" that was used on the blow-up. He said it was one of the samples he received, and it was selected at random.

Alcock asked: "Is your specialty an exact science?"

"How exact do you mean?" asked Appel.

"As exact as mathematics?"

"Mathematics is the only

exact science there is," replied Appel, adding that his specialty is as exact as chemistry, and added: "Certainly the comparison of the design is scientific . . ."

Alcock then asked if mistakes are made in his field; and Appel said, "Mistakes are made in any kind of endeavor that a human undertakes." He quickly added his conclusions have never been proven wrong in court.

Alcock then mentioned some Louisiana cases and asked Appel if he recalled them. Alcock intimated that in some cases he named, the side that Appel testified for did not always win.

Appel said that what he meant when he made his earlier statement was that "no one has even proven my position was wrong."

Later Appel told Alcock that, of what he saw in court, the original of the signature in the register "verifies what I found."

On re-direct, Appel told Dymond that having seen the original of the register signature confirmed his opinion. Dymond asked if there is any difference created by writing sitting or standing. "No, sir," said Appel, "that would concern a different aspect of the writing entirely."

Dymond then asked Appel if he was being compensated for testifying.

Witness Appears Because of Civic Duty

"No, I'm appearing because I feel it a civic duty."

He explained that in the past he had done this, adding he does not normally take criminal cases, but when there

comes a time when "without my services an injustice may occur I do it as a civic duty."

Dymond said he was finished. Alcock immediately questioned Appel about his last statement. Appel repeated he does not appear as a defense witness in criminal cases "unless there are some peculiar circumstances that convince me an injustice might be done."

Judge Haggerty said he thought the state was allowing the witness to go into a field which the jury would eventually have to decide.

He told Alcock he was per-

mitting the witness "to go beyond the scope of his testimony." Alcock countered that this was a subject that was entered by the defense.

Alcock asked Appel when he formed his opinion about an injustice; and Appel said, "I formed an opinion that was needful for me to intervene."

He then explained that Lloyd Cobb, who previously testified as a defense witness, called him and asked what he would charge for his services. He said he worked for Cobb on previous cases. Appel said he told Cobb his fee was \$250 a day, and Cobb said the defendant does not have that kind of money. He said the call was made last Feb. 14.

After his discussion with Cobb, Appel said, he felt the defendant could not pay "and possibly stood a chance of an injustice."

"Do you know whether Mr. Cobb was a witness in this trial for the defense?"

"No, I don't. I don't know anything about the case."

"And yet you formed an opinion about the case?"

"That's right," answered Appel.

"That's all," said Alcock. The witness was excused.

Biddison was called next. He said he has lived at 1414 Chartres since 1957 and has known Shaw for 23 years.

Dymond asked Biddison if he owned an automobile in 1963, and Biddison said he did, a 1960 black Cadillac. Dymond then showed him a state exhibit of a black Cadillac and Biddison identified it as the one he owned. He said he recognized it as being photographed in the driveway of the man to whom he sold it.

The photograph of the black Cadillac is a state exhibit that was shown to witnesses from Clinton, La., who said they saw Shaw and Ferrie sitting in it in late August or early September, 1963. One witness said he saw Oswald get out of the car, and he identified Shaw and Ferrie as remaining in the front seat.

Dymond asked Biddison if he knew Shaw in 1963 and if he was a close friend of his at that time. He said yes to both questions.

Biddison Did Not Lend Auto to Shaw

"Did you lend your car to

Clay Shaw?"

"No."

Dymond asked why he was so positive, and Biddison said that he used his car in his business (real estate) and Shaw had a car of his own, a black Thunderbird.

Dymond asked if during 1963 Biddison loaned his car to anyone "for a sufficient period to take a trip out of town?"

"No, not in 1963," he said.

Dymond asked Biddison if he knew Shaw ever to go under a name other than Clay Shaw or Clay L. Shaw. "No."

"Did you ever know him to use an alias?"

"No."

He also said he did not know a Clay Bertrand or a Clem Bertrand.

Biddison also answered affirmatively to a Dymond question of whether during the time he has known Shaw he was reasonably familiar with Shaw's circle of friends.

He also said he did not know a Lee Oswald or a Lee Harvey Oswald, or a David W. Ferrie or

a Dave Ferrie, and did not know of either of these persons being acquaintances of Shaw, nor did he ever hear Shaw mention either name.

He was shown pictures of Oswald and Ferrie and repeated he never saw them, nor did he ever see them in the company of Shaw.

"During the years you have known Mr. Shaw, have you been familiar with his manner of dress?" asked Dymond.

"Yes," answered Biddison.

"Have you ever seen him wear tight pants?"

"No."

"Have you ever seen him wear a hat?"

"No."

Witness Recalls Shaw Trip to Europe

Dymond then asked Biddison if he recalled when Shaw took a trip to Europe in 1966, and the witness said he did.

Biddison said he drove Shaw to the ship that he sailed on and handled the leasing of Shaw's home during the period Shaw was to be away.

He said Shaw's home at 1313 Dauphine was originally leased for the three-month period from May 4, 1966, to Aug. 3, 1966, but

the lease was later extended to Sept. 3, 1966, and again to Sept. 20, 1966, even though Shaw had returned to the city.

"During the time he was out of the country, did you receive mail for him?"

"Not to my knowledge, at my home," answered Biddison.

He said he received mail for Shaw at his office at 900 Royal, and some mail was brought to his office by the people who leased Shaw's home.

Dymond asked what he did with the mail, and Biddison said that on two occasions he placed certain correspondence in envelopes and mailed it to Shaw in Spain and England.

Dymond asked if he had occasion to look at Shaw's mail, and Biddison said he opened all the mail; and it was at his discretion what correspondence he would forward to Shaw.

"Did you ever receive any mail at your office, residence or any place, addressed to Clay Bertrand?" asked Dymond.

"Never," answered Biddison, "prior to the commencement of this trial."

He described the type of mail box at his home and said he did not recall any mail addressed to Shaw being delivered to his home.

Dymond asked if a Clifford Boudreaux ever lived at his home, and Biddison said "no." (Clifford Boudreaux was a name which Dymond mentioned to James Hardiman, Biddison's mailman. Dymond asked Hardiman if he ever delivered mail addressed to him at Biddison's residence, and Hardiman said he thought he had.)

On cross examination, Alcock established that Shaw resided with Biddison for a short time, about a week, after Shaw returned from Europe in 1966 and before he was able to get back into his own home.

Alcock asked who else lived with Biddison at the apartment. He said that Fred Tate lived there in 1964 and 1965, and that a business partner in the restoration of 1414 Chartres, Clifton Gomez, lived there with him from 1957 until 1961.

Biddison said there were no other permanent residents at the address during the period he has lived there, but he added he has had many guests from

time to time.

Witness Saw Shaw Very Little in 1963

Alcock asked Biddison if he saw Shaw very much in 1963, and Biddison said he saw him very seldom because Shaw was "fully involved" with International Trade Mart business.

"How about the summer?"

"Particularly during the summer," answered Biddison.

Alcock asked Biddison if he ever loaned his car to Shaw

in the fall of 1966; and Biddison said he had, and he believes Shaw drove to see his parents in Hammond. He said that at the most, he loaned his car to Shaw on three occasions, but he could not remember the dates.

Alcock returned to the question of Shaw mail received and Biddison said that no mail was forwarded from Shaw's residence to his own, although he said there may have been letters addressed to Shaw directly to 1414 Chartres.

Alcock asked Biddison if he knew whether Shaw executed a change of address before he left on his European trip. "It was my understanding," said Biddison, "that Mr. Shaw's mail was forwarded to my office." He added that "even today" he receives mail for Shaw at his office.

Biddison, questioned about change of address forms, said he executed them for clients in his real estate business. He was then shown a state exhibit, a change of address cancellation directing that mail for Shaw re-directed to 1414 Chartres should be delivered to 1313 Dauphine, Shaw's home.

Biddison repeated that, to the best of his knowledge, no Shaw mail was re-directed to 1414 Chartres.

"Do you know the postman who delivers mail to your home?"

"Yes, I do."

"Do you know this man's name?"

"I do now," said Biddison, "Hardiman, James Hardiman." (Hardiman testified earlier for the state.)

Alcock asked Biddison if he had ever had any difficulties with Hardiman, and Biddison said no.

Biddison was then asked if

he had occasion to ask Hardiman about his statement that during the period Shaw was out of the country he delivered mail addressed to Clem Bertrand to the 1414 Chartres st. address.

Biddison said he had, "when it was published in the newspaper."

Alcock asked if he meant Hardiman's testimony, and Biddison said he referred to District Attorney Jim Garrison's opening statement which "named me and my address."

"Did you know about this prior to it being published in the newspaper?"

"No."

Alcock asked Biddison if he could think of any reason Hardiman would say something untrue about delivering mail to the 1414 Chartres st. address, but Dymond objected. Judge Haggerty sustained the objection and told Alcock that Biddison was not a character witness for Hardiman.

Next Biddison was asked how much mail he received for Shaw at his office.

"What comes to mind," said Biddison, "is tons of it."

He said he opened every piece of Shaw's mail, both personal as well as business, and said Shaw had complete confidence in his doing this.

Alcock then asked if, prior to the fall of 1966, Biddison lived with Shaw. He answered that from 1946 until 1948 they lived at 537 Barracks and from 1948 until 1950 they lived at 906 Esplanade. Biddison said that Shaw owned 906 Esplanade.

Alcock asked Biddison if he received mail for anyone else at 1414 Chartres. He named a C. C. Bunker and a Sherman Schroder, both of whom he identified as one-time house guests, and he said that from 1963 on he has received mail for his invalid mother, his deceased father, and Social Security checks for his mother. "Other names escape me," he added.

He told Alcock he sold his black Cadillac in late fall of 1966, and he said he never loaned his automobile to his house guests.

He told Alcock he was not subpoenaed to appear as a witness but appeared of his own

volition. He said that after his retirement from the Trade Mart, Shaw was a licensed salesman for the real estate business he operates.

Phelan was called next.

Phelan was called as a witness at 11:30 a.m., but his testimony was halted shortly before noon when the defense attempted to question him about a conversation he had with Sciambra at the home of Jim Garrison in March, 1967.

Phelan said he came to New Orleans in late February, 1967, shortly after news broke of Garrison's investigation into the assassination, on assignment from Saturday Evening Post.

He said he got to see Garrison after his arrival and started to say Garrison suggested a trip to Las Vegas, but Alcock objected to hearsay and was sustained by Judge Haggerty.

Phelan then told Dymond he saw Garrison first at his office and later at his home and subsequently met him in Las Vegas.

"Did you suggest the meeting in Las Vegas?"

"No sir."

"Was it pre-arranged?"

"Yes sir."

Phelan said he met again with Garrison after the Las Vegas trip and after Shaw's preliminary hearing.

Phelan then produced a bill for the room he occupied at the Dunes Hotel during his stay from March 4 to March 7, 1967.

He said he first saw Garrison in Las Vegas March 5 and talked to him at the Sands Hotel. He said Garrison gave him two documents, and he identified one as the Sciambra memo.

Phelan Was Given Documents to Read

Phelan said he thinks Garrison gave him two documents March 6, and the presentation followed a series of conferences.

He said after he received the document he returned to his hotel room and read them several times. He mentioned six readings and Dymond asked why, and Phelan said because there were so many discrepancies in them.

Alcock objected that the Sciambra memo had already been read to the jury, and Phelan could not express an opinion about it in their presence.

Dymond asked the witness to

try to answer the question without expressing an opinion; and after a pause, Judge Haggerty added: "It's almost impossible."

Dymond said he realized that and then asked Phelan what he did with the documents. Phelan said he made copies and returned the originals to Garrison. He said he did not tell him anything at the time, and he believes he spoke with him one more time.

Phelan said he left Las Vegas March 7, returned to his home in Long Beach, Calif., and returned to New Orleans to cover Shaw's preliminary hearing for the Post.

He said he was in the courtroom for the testimony, and he believes that the day after the hearing ended he called Garrison "and told him I was terribly disturbed by the testimony of Perry Raymond Russo."

Alcock objected, but was overruled.

Phelan said that, shortly after talking with Garrison on the telephone, he went to Garrison's home and arrived about 6 or 7 p. m.

Dymond asked who else was present, and Phelan said Mrs. Garrison and the Garrison children.

Dymond asked Phelan what he told Garrison.

"I told him there was a complete discrepancy between what Mr. Russo told in Sciambra's memo and what he testified to on the stand," answered Phelan.

Dymond asked for Garrison's reaction; and Phelan said, "His jaw dropped a little bit." "And what did he do after picking up his jaw?"

Phelan said Garrison made a telephone call. Dymond asked what the result was, and Phelan said Sciambra arrived at the Garrison home. He said that, in the meantime, William Gurvich had also come to the house.

Dymond asked the witness if he said anything to Sciambra, and Phelan began, "Yes, I told him that in his report on his interview with Mr. Russo in Baton Rouge that there was no information whatsoever about an assassination plot, or that Mr. Shaw knew Lee Oswald or that Mr. Russo said he knew Mr. Shaw as Clay Bertrand or

Clem Bertrand."

Argument Ensues

Over Defense Question

Dymond asked for Sciambra's reply, but the state objected. Arguing began, and the jury was ordered out of the courtroom. Dymond maintained that Sciambra testified as a witness and denied making a certain statement to Phelan, that there was not a conflict in the testimony of two wit-

nesses, that the defense had a right to impeach certain statements by Sciambra.

The defense maintained that it laid the proper foundation for impeaching Sciambra in its questioning, and Judge Haggerty indicated that he would study the testimony during the lunch break and rule on it after the trial was resumed.

The afternoon session was more than 55 minutes late in starting as the court waited for a transcript of the testimony of Sciambra. The defense was seeking to throw the door open for questioning of Phelan by banking on an article pertaining to prior contradictory statements. This was vital to the defense, so that it could have Phelan tell what Sciambra related to him in a meeting at Garrison's house.

Finally at 2:27 p.m., Judge Haggerty and the state and defense returned to the courtroom. In the 57-minute wait, spectators used the time to visit with each other and compare notes. One priest leaned back in his chair and appeared to be napping.

Dymond read the questions that he wanted to ask Phelan, and Judge Haggerty said to bring the jury back.

With the jury in, Dymond asked Phelan, "Referring to the meeting at the Garrison home with William Gurvich, you, Sciambra and Garrison, did you ask Mr. Sciambra why the report of his interview with Perry Raymond Russo in Baton Rouge Feb. 27, 1967, didn't contain anything concerning the assassination plot?"

Alcock immediately objected.

Dymond explained that Sciambra in his testimony before the trial was asked whether he had claimed the account of the as-

sassination was in the Feb. 27 memorandum to Garrison and that after some explanation, Sciambra said, "No."

Judge Haggerty ruled that Sciambra did not distinctly deny the question, and that the defense could proceed to get answers from Phelan.

Phelan was able to say whether he asked Sciambra about the omission of anything about the assassination plot in the Feb. 27, 1967, memo. He replied, "I certainly did."

"What was Mr. Sciambra's reply?" asked Dymond.

"He said I didn't know what the hell I was talking about," said Phelan. "That I was all wrong that there was nothing about the plot in the memo."

Phelan said he told Sciambra, "I'll bet you my job on the Saturday Evening Post if you'll bet your job on the district attorney's staff. We will read it and find out who is right. I got no bet."

Witness Alleges

He Asked for Notes

In response to a question, Phelan said the next day he went to the office to clear up the discrepancy. He said he told Sciambra it could be cleared up by his producing the original notes. "I assumed if it was heard," said Phelan, "that there was a note made of it. I told him, 'Get your notes.'"

"What other discrepancies were found in the memo?" asked Dymond.

"I object," said Alcock. "He is asking for this man's opinion."

Dymond agreed, and rephrased the question, "Were there any other matters discussed?"

Phelan said there were. "We went over one line at great length," he said.

There was a pause as Phelan was furnished a copy of the Sciambra memo. "The main point is on Page 6," said Phelan.

"I object," protested Alcock. "He just can't go down the memo and read it to the jury."

Phelan, after Dymond rephrased the lead-in, said, "I pointed out to Sciambra that Russo in his preliminary hearing testimony said he saw Shaw three times before, while it said only twice in the Sciambra memo. The one

time not mentioned was the party at which the assassination plot presumably occurred. I told Garrison that I thought Sciambra could count to three.

"Our conversation centered largely on this. I said it was absolutely incredible that a lawyer could go to Baton Rouge and interview a potential witness to the crime of the century, write a 3,500-page memo and leave out the crime. I said if he heard Russo describe the plot and came back and write one paragraph on the meeting, he would have to mention the plot."

Phelan next told of a meeting with Russo, pre-arranged by Sciambra, in Baton Rouge. He said he took along Matt Herron, a New Orleans photographer who shot pictures for the Saturday Evening Post.

"We talked several hours," said Phelan. "He gave me the

Continued in Sec. 1, Page 16

DEPENDANT CLAY SHAW'S VERSION WRITTEN FOR HANDWRITING EXPERT

12/14/66 Clay Shaw (New Orleans) News Collection, he

COPY OF SIGNATURE FROM GUEST REGISTER AT N. O. INTERNATIONAL AIRPORT

12/14/66 Clay Shaw (New Orleans) News Collection, he

Continued from Sec. 1, Page 14

background of how he appeared as a witness. I told him I was going to use the Sciambra memo in my Saturday Evening Post story, and I asked him if he would make corrections on it. He read it line by line and made four specific corrections and a comment."

These were the corrections, according to Phelan:

—Al Landry, not his mother, told Russo that David W. Ferrie had taken him out of the country.

—Russo said he, Landry and Ferrie met at a place next door to the Intellect Bar and not the Intellect itself.

—Ferrie had never admitted to Russo that he was a homosexual.

—Russo said that he had not been hypnotized before.

Russo Allegedly Noted Two Meetings Listed

"Did he take exception to mentioning that he (Russo) had only seen Shaw twice, as the memo read?" asked Dymond.

Phelan replied, "I had underlined that line. As he was reading through the memo, Russo stopped and said, 'I should have said three times. Usually I am pretty careful about what I say, but maybe I said only twice.'"

Phelan said he asked Russo why there was no mention of the assassination plot. Phelan said Russo told him he mentioned the assassination plot after he got to New Orleans.

Phelan said his next meeting with Russo was the last week of May, 1967. In the meantime, he had gone to New York and written a Post story on the Garrison probe. As a result of a call to Herron, inquiring about the local reaction to the article, Phelan said he called Russo and set up the meeting. It was at Russo's home "near City Park" in New Orleans.

"What did you ask him during that first meeting in New Orleans?" asked Dymond.

"I didn't ask him anything," said Phelan. "We played a little pool and then, returning to his home, Russo out of the blue made a statement to me on the sidewalk."

The state immediately objected, saying "no predicate had been laid for the statement."

Dymond asked Phelan, "Does this have anything to do with



—Photo by The Associated Press.
JAMES R. PHELAN
Writer testifies.

a priest?" Phelan said it did.

There was another legal hassle, but Judge Haggerty allowed the defense to continue on the same line.

"What was the statement?" asked Dymond.

"Russo right out said to me, 'if Jim Garrison knew what I told my priest in Baton Rouge, he would go through the ceiling. I told my priest I wanted to meet with Clay Shaw and be sure of my identification of Shaw.'"

Phelan said he told Russo, "For God's sake, you got up in court and put your hand over the man's head and said he was the person and now you want to make sure you were right!"

Phelan said a meeting with Shaw was suggested for Russo. Phelan said he went to the office of William Wegmann and told Shaw what Russo had said. "Shaw agreed to it immediately," said Phelan. "And Russo backed off."

Witness Is Asked If Russo Gave Reason

Dymond asked Phelan if Russo ever gave him reason why he (Russo) didn't go to such a meeting.

"He said if word of it leaked back to Garrison, Garrison would clobber him," said Phelan.

Dymond questioned Phelan if there were other reasons given by Russo; and after another legal spat, Phelan was able to tell another reason.

"Russo said to me, 'I lied to you the first time about why I didn't attend a meeting with

Shaw. The reason I didn't was that if I got into a room with Shaw, I would know he was not the man. And what would I do then? I could run somewhere—California, Mexico, become a beatnik. But I could never run from myself."

Dymond attempted to question Phelan about statements by Russo pertaining to "reality and fantasy—not knowing the difference between the two," but Judge Haggerty sustained a state objection.

Then Dymond asked Phelan if Russo ever expressed any fear of reprisals from Garrison if he should change his testimony.

Again Alcock objected, but Judge Haggerty allowed Phelan to answer.

"Yes," was Phelan's reply. "He repeatedly said he was sorry he had come forward as a witness and felt trapped: If he tried to change his story, Garrison would charge him and he would lose his job. He was very fearful of losing his job."

"Tender the witness," said Dymond. Judge Haggerty called

a recess before the state went into cross-examination of Phelan.

Following the recess, court resumed at 3:50 p.m. and Alcock conducted the cross-examination of Phelan.

Alcock, assistant district attorney, began the questioning around a phone interview conducted by WDSU radio with Phelan in April of 1967. Alcock asked if Phelan made a comment on the show to the effect that "Mr. Sciambra had better watch out because I taped the Perry Russo interview."

Phelan replied that he probably did make the statement.

"Did you tape it?" asked Alcock, referring to the Russo interview.

"No," answered Phelan.

"Then that was a lie?"

"If you wish to call it that."

Alcock then concentrated on the subject of whether Phelan pointed out the discrepancy in Sciambra's memorandum to either Sciambra or Garrison. Alcock wanted to know how Phelan could get the impression that a conspiratorial plot was not involved in Sciambra's memorandum relating to his inter-

rogation of Russo.

"I didn't get an impression. It simply wasn't there (in the memo)," Phelan replied. Then, Phelan quoted Sciambra as saying that he was "incorrectly describing" his memorandum, but later amended himself by saying that if the material about a plot is not in the memo then "I forgot to put it in."

"Did Sciambra and Garrison help make arrangements for your trip to Baton Rouge to interview Russo?" Alcock asked.

"Yes," replied Phelan.

"Don't you feel that was inconsistent with their trying to hide something?"

When Alcock asked this question, defense attorney Dymond objected on the grounds it called for a conclusion by the witness. Judge Haggerty sustained the objection.

"How long was your interview with Perry Russo?" Alcock continued.

"Between two and three hours."

"When did you start questioning him about the content of the memorandum?"

"At the end of the interview."

Alcock then wanted Phelan to explain why he delayed questioning Russo about the discrepancy in the Sciambra memo which he (Phelan) considered so "critical."

Phelan Calls Russo

'Very Talkative Boy'

"He wanted to talk to me," Phelan replied. "He's a very talkative boy. He got to telling me the background. When he got through talking, I gave him the memo."

Phelan said Russo read the memo, corrected four statements in it and made a comment on the section where he claimed he saw Shaw twice.

"It took him quite a while to read it. I sat there and made notes," said Phelan.

When Russo finished reading the memo, "I asked him only one question," Phelan testified.

"Only one? About something you considered critical?" countered Alcock, adding:

"Isn't it a fact that Perry asked this question while you were going out the door?"

"No," Phelan replied tersely.

"Isn't it a fact that Perry Russo never denied telling Sciambra about a conspirator-

ial meeting?" Alcock pressed.

Phelan then quoted Russo as saying he was first told of the conspiracy plot after he came to New Orleans to be interrogated by the District Attorney—and not during the earlier Sciambra questioning in Baton Rouge.

Phelan also quoted Russo as saying "I'm usually pretty careful about what I say." Phelan pointed out that Russo made a comment that he should have told Sciambra he saw Shaw three times rather than two.

"When did you start writing the article for the Saturday Evening Post?" Alcock asked.

"About two or three days after I had the interview with Mr. Russo."

"Did you consider his answers highly important and critical . . . that Sciambra was a liar?"

"Yes, sir."

"How many words was your article?"

"Six thousand."

"Would you say the article is a criticism of the investigation?"

"I certainly do."

Alcock then centered his questioning on why Phelan did not mention in his article the point that Russo did not tell Sciambra about a meeting between Oswald, Ferrie and Shaw. "Can you explain?" he asked.

"Well, certainly," answered Phelan. "It (the article) concerns information from the Sciambra memorandum and that Perry Russo told two stories."

"But since you were so critical about Sciambra's memo, why didn't you put it in the article?"

Story in Magazine

Cut to Fit Space

"We had confirmed the truth of what we were printing," Phelan asserted, explaining that the original article ran too long and had to be cut because of lack of space in the magazine.

"This article is about the whole investigation, sir," Phelan told Alcock. "It was on the whole assassination story . . . not the Sciambra memo. I had to tell it in 6,000 words."

"You had to cut the article?"

Alcock retorted. "So you had a space problem?"

Phelan explained that, although the article was cut, he kept all statements taken for his story "in case the article was challenged."

"I have supportive evidence," Phelan told Alcock.

Alcock then turned the questioning to Phelan's role as an employe of the National Broadcasting Co. in May, 1967. Phelan testified that he was employed for five weeks by NBC to work on a White Paper documentary about the Garrison case.

Phelan said he worked with producer Fred Freed and NBC reporter Walter Sheridan on the television venture.

"What was the purpose of the White Paper?" Alcock queried.

"To report on the Garrison investigation."

"To report on it or to wreck it?" Alcock countered.

"To report on it," Phelan said again.

"What was your assignment?"

"To explore the discrepancies in Mr. Russo's story."

"Hadn't you done that in Baton Rouge?"

"Yes."

Alcock Asks Purpose of Second Meeting

Alcock then wanted to know the purpose of the second interview with Russo.

Phelan explained that he called Russo from New York and that Russo asked him to come by and see him if he was ever in Louisiana again. Phelan quoted Russo as saying that he thought the Post story was "pretty good" and "couldn't understand all the hullabaloo" about it.

Alcock asked Phelan if the names Guy Bannister and James Lewallen ever were mentioned in the Russo interview.

Phelan said Bannister was mentioned because of speculation that the man identified by Russo might be Bannister and not Shaw.

"In other words, you suggested to a state witness he might have been wrong?"

"Yes, with qualification. I repeatedly told Russo that, if his story was true, he should tell it the same way. I never

once suggested he change his story. He was not certain of the identification of Shaw. He was a boy tortured and in real agony."

"Then why did you say Guy Bannister?"

"Because of the similarity between them (Bannister and Shaw)."

"Have you ever seen Guy Bannister?"

"No."

Phelan said he learned of the Bannister - Shaw speculation from Freed and Sheridan.

Phelan said Russo expressed a desire for legal help and asked Phelan for advice. "I told him I had only one piece of advice for him—tell the flat out truth," Phelan testified.

Phelan said Russo maintained he did not have enough money for a lawyer. "I relayed the information about a lawyer to Freed. Freed said there was a well-known lawyer who would take his case without a fee."

Phelan said he told Russo this, but also stressed that he (Russo) would have to call the lawyer himself and ask for his help.

Alcock wanted to know just

what "case" this lawyer was to handle for Russo.

'Russo Kept Saying He Needed Lawyer'

Phelan replied that Russo felt he needed a lawyer. He said the matter of a lawyer was discussed four or five times because Russo kept bringing it up.

Concentrating again on Russo's identification of Shaw, Alcock asked Phelan, "Don't you recall Perry Russo saying he'd rather be 1,000 per cent sure rather than 100 per cent?"

"Absolutely not," replied Phelan.

"Did you tell Russo he would be a patsy if Clay Shaw were found not guilty?"

"Yes, sir," said Phelan, explaining that Russo was the man who made the accusation and that Garrison's case rested solely on his testimony.

"Did you tell him that Garrison would turn on him?"

"Yes, with explanation," Phelan then explained Garrison once told him in Las Vegas how he was going to discredit attorney Dean Andrews Jr. "I'm

going to get a lawyer who's a friend of mine and I'm going to wreck him," Phelan quoted Garrison as saying.

Phelan said Garrison did not name Andrews per se, but he felt that he meant him. (Andrews was indicted and convicted on a perjury charge brought against him by the Orleans Parish Grand Jury.)

Garrison Informed of Phelan's Arrival

Phelan said after he arrived in New Orleans for the NBC assignment, he relayed information to Garrison, informing him that he was in town. Phelan said he told Larry Lamarca and Pershing Gervais to "Tell Big Jim I'm in town and that I'm not hiding from anybody."

Phelan said his lawyers had advised him not to come to New Orleans again "because of Mr. Garrison's ruthlessness with people who criticize him."

Other than Russo, Phelan said he talked to two other persons for the White Paper assignment — Layton Martens, one-time roommate of Ferrie, and Marlene Mancuso, ex-wife of Gordon Novel, a bar operator who figured in the Garrison investigation.

Phelan's cross - examination ended at 4:34 p.m.

Following him to the stand was Mrs. Garner, the housewife from 4911 Magazine st. who rented an apartment to Oswald in the summer of 1963.

Mrs. Garner said Oswald stayed at the apartment from early May to mid-September of 1963. She testified that she saw him about once a week waiting for a bus.

"Did you ever see him with a beard?" asked defense attorney Dymond.

"No," she replied.

"Was he ever a dirty, unkempt person?"

"He was very neat. Never unkempt."

"Did you ever see the defendant, Clay Shaw, with Oswald?"

"I've never seen him (Shaw) before his picture was published in the newspapers." Mrs. Garner also testified that she never heard Shaw's name mentioned by Oswald.

Witness Identifies

Photo of Ferrie

Dymond then showed Mrs.

Garner a photo of David Ferrie. Asked if she had seen that man before, Mrs. Garner replied that he was the same man who rang her doorbell either the night of President Kennedy's assassination or the night afterward.

Mrs. Garner said Ferrie was alone and came "after dark."

"He stayed a few minutes and when I found out he wasn't someone important, I asked him to leave," Mrs. Garner said, explaining that she thought Ferrie might have been an FBI agent seeking information about Oswald.

Mrs. Garner said Oswald's wife, Marina, left the apartment during the day between Sept. 21-23, 1963, and that Oswald stayed a short while longer before leaving that same night.

Under Dymond's questioning, Mrs. Garner testified that Oswald lived in the apartment the entire months of July and August, and that she saw him during that time at least once a week. "I used to see him catching the bus once a week, maybe more."

Dymond tendered the witness at this point.

In a short cross-examination by Alcock, Mrs. Garner said she did not have any lengthy conversations with Oswald while he was staying at the apartment. She said he paid the \$65 monthly rent in cash.

Witness Asked

About Apartment

Alcock wanted to know if the condition of the apartment was



—Photo by The Times-Picayune.
MRS. JESSE GARNER
Former Oswald landlady.

“dirty” after the Oswalds moved.

Mrs. Garner replied that “everything was broken” including the stove and refrigerator.

Alcock ended his cross-examination and Dymond came back with one question on redirect.

“Did Oswald pay the rent promptly?” he asked.

“The first month he did. But after that I had to go after him.”

The questioning of Lt. O'Donnell began at 5:05 p.m. and after getting the officer's background into the record, Dymond began asking him questions about his June 19, 1967, conference with Russo.

After giving Russo's statement as to why he testified as he did, Dymond asked if during this conversation Russo expressed an interest in seeing Garrison's case in its entirety.

“Yes, he did,” answered Lt. O'Donnell.

Dymond asked if Russo had given any reason for this, and the witness said Russo “asked me if I could let him see the case of Mr. Garrison.” He said Russo indicated he wanted to see it to see how strong it was as this would assist him in deciding how he would testify.

“I told him to examine his conscience and not lean on what Mr. Garrison has . . .” Lt. O'Donnell said.

Officer Reported

Conversation to DA

O'Donnell said he immediately went to Garrison's office and reported the conversation “and the following day I typed a report on it and brought it upstairs to give Mr. Garrison a copy of my report.”

Dymond said he was through with the witness and tendered him to the state for cross-examination.

On cross-examination, Alcock's first question was if Lt. O'Donnell had tape recorded the conversation.

“No, sir,” he said.

Alcock then asked him if when he was in the DA's office with Garrison, James V. Burnes and Russo he had repeatedly asked Russo if he'd like to hear a tape of the conversation.

Lt. O'Donnell said he had said this because Russo denied he “ever told me Clay Shaw was not at Ferrie's apartment,” and he attempted to use the possibility of a tape recording to get Russo to “admit to what he told me.”

“Perry Russo did a double-take,” Lt. O'Donnell said.

“Do you remember repeatedly saying you had a tape recording and he said, ‘Let me hear it!’”

Lt. O'Donnell said Sciambra had asked him the same question and “I told him there was no tape.”

Four or Five Copies of Report Made

Alcock then asked the witness how many copies he had made of his report and what distribution he had made of them. Lt. O'Donnell said he made four or five copies and he said he gave one copy to the DA's office; the original to the chief of police; one copy to the chief of detectives, and the remaining copy he kept.

Alcock asked who had the original and Lt. O'Donnell said either “you (the DA's office) or the superintendent (Joseph I. Giarrusso).”

He said he gave copies to no one else.

Alcock asked Lt. O'Donnell if on direct questioning he said Russo stated he was prepared to “tell the truth” before Dymond turned him on, and the witness said this was correct.

Alcock then asked if the word “truth” appeared in his report on the conversation. Dymond

objected and asked that the witness be asked if there was a word synonymous with “truth” in the report, and that that part of the report be read.

Judge Haggerty overruled the objection.

Lt. O'Donnell said he could not find the word “truth” in the report.

Alcock asked the witness if Russo told him he was being

bombarded by newsmen.

Lt. O'Donnell said Russo told

him “he was under extreme pressure from newsmen and Jim Garrison.”

“Is that in your report?”

Pressure Mentioned in Report—Officer

Lt. O'Donnell said it was not, but instead there was a mention that Russo said he was under pressures.

“If you're asking me is my report word-for-word with our conversation, then it is not.”

“Is it the conversation, in essence?”

“Do you recall making this statement, ‘If necessary I will produce a tape.’?”

Lt. O'Donnell repeated that he had already explained why he said that; that “Perry Russo had done a retake; he had told me Clay Shaw was not at David Ferrie's apartment.”

Lt. O'Donnell then said that Sciambra “falsely led me to the District Attorney's office, leading me to believe I was to give someone a test.” He said he waited for an hour in the office and then he was called into Garrison's office and his secretary was there “taking notes at this time.”

Russo was there, he said, and Garrison asked for a copy of his report. Lt. O'Donnell said Garrison did not have his copy and he returned to his office, obtained a copy and brought it. He said it was given to Russo to read.

Lt. O'Donnell continued that after Russo read it, he said “most of it is true, except I didn't tell O'Donnell Clay Shaw was not” at the party.

He said it was at this point that he attempted to obtain from Russo an admission that he had made that statement, and “I made the statement relating to a tape re-

ording."

"You were lying then about the tape?"

"Well, you have notes there. I don't know if I said, 'I have a tape,' or 'Would you like to hear a tape'. You have the statement; Mr. Garrison's secretary was taking it down."

Alcock then showed the report of the discussion in Garrison's office to the witness and he studied it for several minutes.

After finishing it, he told Alcock: "The notes state I could produce a tape, and I don't have a tape."

"Did you say, 'I taped the conversation.?'"

"I have no argument with that," he replied.

Judge Haggerty then announced he was recessing the trial since he expected more cross-examination and then re-direct and re-cross.