

STATE IS STUNNED BY JUDGE'S RULING



—Photo by The Times-Picayune.

HEADING TOWARDS the Criminal District Court Bldg. Wednesday is Police Officer Aloysius J. Habighorst who was called by the state to testify concerning an alleged alias he said Clay Shaw mentioned to him the night Shaw was arrested on March 1, 1967. Judge Edward A. Haggerty ruled Habighorst's testimony was inadmissible in Shaw's conspiracy trial. T-P 2/20/69

rights if he asked the question about an alias, said the judge. "Even if he did," continued Judge Haggerty, "it is not admissible. If Officer Habighorst is telling the truth—and I seriously doubt it . . ."

Alcock leaped up, his face red in anger and his voice trembling, and he said: "Are you passing on the credibility of a state witness in front of the press and the whole world?"

"It's outside the presence of the jury," Judge Haggerty replied. "I do not care. The whole world can hear that I do not

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Card, Officer's Testimony Held Inadmissible

Judge Edward A. Haggerty Jr. stunned the prosecution in the conspiracy trial of Clay L. Shaw Wednesday by refusing to admit a New Orleans policeman's testimony about an alleged Shaw alias.

Judge Haggerty ruled the testimony was inadmissible along with a fingerprint card, signed by Shaw, because two New Orleans policemen violated Shaw's constitutional rights on the night he was arrested, March 1, 1967.

Shaw, 55, is charged with conspiring to assassinate President John F. Kennedy.

The decision, along with an accompanying remark by Judge Haggerty that he "doubted seriously" the testimony of Ptn. Aloysius J. Habighorst, came after Shaw personally took the witness stand to refute Habighorst's testimony.

Assistant District Attorney James L. Alcock sprang to his feet when Judge Haggerty announced his decision and expressed disbelief when the judge said he doubted the policeman's testimony.

He said he would file for writs of review with the Louisiana Supreme Court immediately, and Judge Haggerty indicated that unless the Supreme Court grants the writs he will proceed with the trial at 9 a. m. Thursday.

Haggerty Says Rights Violated

Judge Haggerty, in remarks leading up to his ruling, said Shaw's constitutional rights were violated in his not being allowed to have his attorney with him during the fingerprinting and in Habighorst's alleged questioning.

Habighorst violated Shaw's

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believe Officer Habighorst. I do not believe Officer Habighorst."

Alcock then moved for a mistrial, and the judge denied it.

Then Alcock said he would appeal to the Louisiana Supreme Court to reverse Judge Haggerty's ruling.

Immediate Request for Review Planned

He said he would file for the review by the state's highest court immediately, and Haggerty said that if no word is received from the Supreme Court by 8:45 a. m. Thursday, he will then telephone the court himself in Alcock's presence. If the review is not granted by 9 a. m., Judge Haggerty said, the trial will resume.

The rapid fire conclusion of events Wednesday afternoon came out of the presence of the jury and saw Shaw and two of his attorneys, Edward F. Wegmann and Salvatore Panzeca, take the witness stand.

Shaw, called as a witness for the limited purpose of the admissibility of the oral statement of Ptn. Habighorst, said he signed a blank fingerprint card at the Bureau of Identification office in Central Lockup the night of March 1, 1967, because Ptn. Habighorst said "this was necessary to getting bail."

He said that his attorney, Edward F. Wegmann, was not permitted to go into the B of I room with him when he was fingerprinted, and that while he was in the room he was not asked any questions at all.

Shaw said all he could remember saying was, "In that case I'll sign it," after being told his signature on the blank fingerprint card was necessary if he wanted to obtain bail.

Ptn. Habighorst testified early in the afternoon that he asked Shaw questions to fill in blanks on the fingerprint card including "other names he may use or may be known by."

The card carries the notation that Shaw uses the alias "Clay Bertrand" and the state contends that Shaw signed it after reading its contents.

Judge Haggerty said, after hearing arguments over oral testimony of Ptn. Habighorst, that he felt Capt. Louis J. Currole violated the Supreme Court

decision in the Escobedo case "because no police officer has the right to tell an attorney he cannot be with his client," and that Habighorst violated "in spirit" the effect of the Miranda decision "in that he 'did not forewarn Mr. Shaw of his right to remain silent.'"

It was after this statement that the judge said "although I doubt it (Habighorst's testimony) seriously from what I have heard."

The only Shaw attorneys who did not take the stand were F. Irvin Dymond and William Wegmann.

District Attorney Jim Garrison made another courtroom appearance Wednesday and that was to question a Dallas, Tex., man who said he saw four men run from the area of the Texas School Book Depository after the assassination of President John F. Kennedy Nov. 22, 1963.

In another testimony Wednesday:

—Dr. John M. Nichols of the University of Kansas underwent cross-examination; Mrs. Jesse Parker, a former hostess at the Eastern Air Lines VIP Room at New Orleans International Airport, testified that she saw Shaw sign the name Clay Bertrand in the guest register at the room on Dec. 14, 1966.

—Also, Sgt. Jonas J. Butzman and Officer John N. Perkins testified in connection with the admissibility of the Habighorst testimony.

Shaw was the last witness called by the defense while the judge heard testimony regarding the admissibility of the Habighorst testimony.

Shaw Appears Relaxed on Stand

Answering questions rapidly, Shaw appeared relaxed and he spoke in a strong voice.

Shaw acknowledged that on March 1, 1967, he was arrested in the DA's office, and he explained that during the afternoon he was able to contact Panzeca by telephone. Edward Wegmann was temporarily out the state.

"Did he give you any legal advice?" asked Dymond.

"He said to speak to no one except himself."

"Did you follow it?"

"I did."

Dymond asked Shaw if after he went to the Central Lockup

following his arrest he was with an attorney. He said that Edward Wegmann was with him. (Wegmann testified he arrived back in the city during the afternoon and shortly thereafter went directly to the DA's office.)

Shaw said that at the Central Lockup he wanted "my lawyer with me at every stage," but

he was told he had to go into the B of I alone.

He was shown a copy of the fingerprint card bearing his signature and he said he recognized the signature as his own.

"What material was filled in on it when you signed it?" asked Dymond.

"Nothing," he answered.

"You signed a blank fingerprint card?"

"I was told this was a necessity to getting bail."

Shaw Says Clerk Filled Out Sheet

Dymond asked him if he recalled being booked. Shaw said he did and he identified the booking sheet as being "filled out by the booking clerk who asked me questions."

Shaw said he was not asked about an alias or any names he uses.

"Did you ever tell anyone at Central Lockup you used an alias?"

"I didn't."

He was then shown the copy of the booking sheet given to him and he said there was nothing on the copy concerning an alias.

On cross-examination by Alcock, the prosecutor asked Shaw if it was not a fact that his telephone call to his attorney was made at the suggestion of Assistant DA Andrew M. Sciambra.

Shaw said it was not exactly correct. "I said I wanted an attorney and he said I'd better call one."

Shaw said he was not physically abused nor promised any reward for answering questions in the DA's office.

He said all statements he gave to the DA's office he gave freely and voluntarily. Shaw said he first wanted an attorney "at the time Mr. Sciambra said they were going to charge me."

Shaw then said that no one

attempted to question him in the DA's office between the time of the telephone call and the arrival of Panzeca.

He was asked if after Panzeca arrived, he was permitted to talk with his attorney.

"We communicated, largely by writing," Shaw said. He said he was with Panzeca alone for about 20 to 25 minutes.

As Alcock touched upon each phase, the period between Panzeca's arrival and leaving the DA's office, and the trip from the Criminal District Court Building to Central Lockup he asked Shaw if anyone in the DA's office physically abused him or promised him a reward for answering questions.

Each time Shaw said no.

Alias Not Mentioned, Shaw Testifies

Shaw repeated that at the arrest register at Central Lockup no mention of an alias was made, and he said that as he answered questions, the officer typed.

Shaw said the policeman asked him several questions.

"Did he ever type when you were not responding to a question?" asked Alcock. "I think not," answered Shaw.

He said his attorney, Edward Wegmann, was standing next to him during this period. When this questioning was over, Shaw said he was taken to B of I, and his attorney was not permitted to accompany him.

He said he was asked no questions at all, and he repeated that he had signed a blank fingerprint card. He said he did not know when Habighorst signed the card because he did not see him sign it.

"And the officer did not ask you anything?" asked Alcock.

"That's my testimony," said Shaw.

"He didn't ask you for the correct spelling of your name?"

"No."

"Did he ask you how to spell your name?"

"To my recollection, no."

"You are fairly certain?"

"Yes."

Shaw said he recalled being instructed to wash his hands prior to being fingerprinted, and he said he also believes he

was photographed.

Alcock Attempts to Enter Card

The sparks began flying as each side introduced exhibits in connection with the afternoon testimony. The defense entered several and then Alcock attempted to enter some. When Alcock presented the fingerprint card, Dymond objected, saying it was a self-serving declaration for the state and Shaw had signed it when it was blank. Alcock maintained that the signature had been placed on it only after the defendant had read the card.

Alcock maintained that the incident in the B of I was merely a booking procedure" and not in violation of Shaw's constitutional rights.

This is when Judge Haggerty said he was sustaining the defense's objection to the intro-

duction of the fingerprint card as well as Habighorst's testimony. However, he said that in the matter of interrogation the DA's office "skirts are very clean."

Panzeca testified briefly before Shaw took the stand.

He said that Shaw called him about 3 p. m. on March 1, 1967, and he arrived at the DA's office about 15 to 20 minutes later.

He said Shaw was in Sciambra's office and he told him not "to speak to anyone at all about anything; not even to say 'hello' or 'good-by.' I told him not to answer questions from anyone."

"Did you make this known to any members of the district attorney's staff?"

Panzeca said he did to Sciambra and two other aides of the DA who were "guarding" Mr. Shaw.

Attorney Was Able to Meet with Shaw

Alcock asked Panzeca if any member of the DA's staff denied him the right to meet with Shaw, and he said no, "but I didn't think I could question him freely."

"Did you advise him of his

constitutional rights?"

"I told him he didn't have to make a statement."

Panzeca said that when he and Shaw finally were alone he was "afraid the room and area we were in were bugged."

He said their original communication was conducted on a note pad. He said he would write a question to Shaw on the pad and Shaw would answer in writing.

Alcock asked Panzeca if he observed any evidence that the room was bugged. "I really didn't make a search, it was just a feeling."

Panzeca said that when Shaw was taken to Central Lockup he went with Alcock and others to Shaw's French Quarter apartment for which the DA's office had obtained a search warrant.

Capt. Curole took the witness stand at 3:30 p. m., following a short mid-afternoon recess. Curole said he was the Central Lockup platoon commander on duty when Shaw was delivered for booking March 1, 1967.

Curole said he assigned Sgt. Butzman to guard Shaw until the processing was completed. He also said Shaw's attorney, Edward Wegmann, was not admitted to the Bureau of Identification room on his instructions.

He said, however, that Wegmann expressed no desire to enter the room; and therefore, Curole said, he did not tell the attorney he could or could not enter the room.

Curole said he told Wegmann he could see his client as soon as the fingerprinting was finished. Asked to leave the booking area, Wegmann then went to the lobby.

Curole explained that the field arrest form is a five-part sheet which gives Central Lockup necessary information to book an individual. He said it is

normally filled out at the time of arrest.

Asked by Dymond about copies of the arrest form, Curole replied that several copies are made and distributed to proper departments.

Dymond then wanted to know where these copies go. This triggered an objection by Alcock, who claimed the question was "totally irrelevant" to the



—Photo by The Associated Press.
JESSIE PARKER, prosecution witness in the Clay Shaw trial, uses her coat to cover up as she arrived to testify in the trial Wednesday.

issue of whether Shaw gave a voluntary statement.

Judge Haggerty then conversed with Curole and learned that the copy in his possession was the ninth copy of the original report. At this time, Curole noted that the date of the report indicated "February 30" and should have read "March 1."

The judge overruled Alcock's objection and permitted Dy-

mond to ask his question.

Curole Says Copy Is Sent to Officer

Curole then testified that a copy of the arrest form, including parts two and three which contain information about aliases, is sent to the Bureau of Identification officer. He said that, at the time Shaw was being fingerprinted, there should have been a copy of the arrest form at the officer's disposal.

Dymond asserted that the credibility of Habighorst's testimony was now in doubt because of Curole's testimony. Dymond pointed out that Habighorst testified he did not have the arrest information available.

Alcock objected to this but was overruled again by Judge Haggerty.

Dymond tendered the witness to the state; and under questioning by Alcock, Curole said he did not know for certain whether Habighorst had a copy of the arrest form.

Following Curole to the stand, Sgt. Butzman testified that he was assigned to guard Shaw at Central Lockup and stayed within five to 10 feet of Shaw at all times.

Butzman said he heard Habighorst question Shaw in the B of I room about the correct spelling of a name, although he could not remember the name. Asked by Dymond if the name mentioned was Clay Bertrand, Butzman replied "No."

Alcock continued his objections to Dymond's questioning, but was overruled once more by Judge Haggerty.

Butzman said he did not know if Habighorst had a copy of the arrest form while in the B of I room. Asked if Wegmann was in the B of I room, Butzman said he did not know although he did remember seeing Wegmann by the booking room door about 27 feet away.

Questioned by Alcock, Butzman said he and Shaw were in the B of I room for about 30 minutes. Asked by the state if anyone physically abused Shaw or promised him a reward or immunity from prosecution if he made a statement, Butzman replied, "No."

Butzman said he was close enough to Shaw at all times to hear any conversation between

Shaw and Habighorst.

Butzman was excused from the stand, and Dymond then called police officer Perkins to the witness chair.

Officer Questioned About Procedure

Alcock objected to Perkins' presence on the stand because the officer was not on duty when Shaw was brought to Central Lockup that March 1. But Dymond said he wanted to question Perkins about standard operating procedure at Central Lockup, and Judge Haggerty overruled the state's objection.

Perkins testified that he is assigned to the B of I division and his duties include fingerprinting and typing up of FBI cards. When an arrested individual is being fingerprinted, Perkins said, a copy of the record division sheet (arrest form) is in his (Perkins) possession.

Perkins said he usually looks over the document and verifies information on it with the arrested individual. He said he does this to make sure there are no typographical errors and that "everything is correct."

He said the desk sergeant sometimes makes a typographical error on the original form which must be corrected before the information is typed onto the FBI cards. Perkins said he orally questions arrested persons and specifically asks them if they have a previous record.

On the matter of aliases, Perkins said not all arrested persons are asked about aliases in the B of I room. "Some you ask, some you don't," he explained.

Perkins emphasized that he would not start the fingerprinting processing without the record division arrest paper.

Questioned by Alcock, Perkins said that, if the officer did not have access to the record division paper, it would be possible to fill out the paper by asking the arrested person the necessary information.

The state tendered the witness, and Perkins was excused.

Wegmann then took the stand, noting that he has been Shaw's attorney since 1949.

Under questioning by Dymond, Wegmann related he accompanied Shaw to Central Lockup. Wegmann said he es-

corted Shaw to the booking window where Shaw was asked to surrender his personal possessions. After the arrest record was completed at the booking office, Wegmann said Shaw was handed a blue copy of the arrest report.

Attorney States No Alias on Card

Asked if there were any aliases listed on it, Wegmann replied:

"I have examined it many times. There is no alias on the copy."

Wegmann said he was then advised by Curole that Shaw would be taken to the B of I room and that Wegmann would have to leave the booking area. Wegmann said he was escorted to a point completely outside the booking area room.

"At no time did I enter or go close to the B of I room," he stated, adding that he has never been in or near the B of I room, and, indeed, did not even know its location.

Questioned by Alcock, Wegmann said he had just arrived in New Orleans March 1, 1967, from an Atlanta assignment when he learned about Shaw's arrest. He said he met Shaw in the offices of the District Attorney that day and that he had already been placed under arrest when he arrived.

Attorney Was Warned That Room Was Bugged

Wegmann said he and Shaw were alone for a time in one of the district attorney's offices but that there was little conversation between them because he had been warned that the room was "bugged."

Asked by Alcock if he knew for certain that the room was bugged or if he saw any bugging equipment, Wegman answered, "I didn't have time to ascertain whether it was."

Wegmann said Shaw was then taken to Central Lockup in handcuffs. The attorney said there was no questioning of Shaw at Central Lockup, adding that "very little" was said at the booking area.

As the afternoon session opened, Alcock moved that the Eastern Airlines lounge register be entered into evidence

of the trial. Judge Haggerty agreed.

The jury was allowed to look at the register, then Alcock said he would like for the jury to be excused for some arguments before Judge Haggerty only. The jury was sent upstairs by the judge.

It was during this 80-minute period that testimony was taken from Louis W. Ivon, who han-

dled the arrest of Shaw March 1, 1967, and policeman Aloysius J. Habighorst, who oversaw the fingerprinting and photographing at Central Lockup of Shaw after his arrest.

The State was attempting to enter a fingerprint card on which Shaw allegedly signed his name, even though it allegedly contained the name of "Clay Bertrand." Ivon was called first but when it became established that Ivon heard none of the questioning of Shaw by Habighorst, Judge Haggerty asked the State why he was even called as a witness.

Alcock told Judge Haggerty that he was attempting to give the court the whole picture, that Shaw was advised of his constitutional rights to remain silent and that he gave the information freely.

A little later, Alcock called Habighorst. The policeman testified he had been with the New Orleans Police Department for 15 years and March 1, 1967, was assigned to fingerprinting and photographing at the Central Lockup's Bureau of Identification (B of I).

Shaw Fingerprinted, Photographed at Night

"Did you on March 1, 1967, fingerprint and photograph the defendant, Clay Shaw?" Alcock asked.

"Yes," said Habighorst. "It was about 8 p. m. inside the Bureau of Identification."

Habighorst said police officer Lynn Loisel, Ivon, Ed Wegmann—who was "in and out"—assistant district attorney Alvin Oser and other police personnel were present.

Alcock asked, "Prior to fingerprinting Mr. Shaw, did you look at his arrest record?"

"No," replied Habighorst.

"Tell us your procedure in

fingerprinting a person," said Alcock.

"I ask him his age, full name, place of birth, height, weight, and other names he may use or may be known by," explained Habighorst.

"Is this routinely done?" continued Alcock.

"It is for someone who has committed an offense that would necessitate his fingerprinting," replied Habighorst. "It is not done for minor municipal offenses."

"Are the questions the same?" Alcock asked.

"Yes," replied Habighorst.

Habighorst, in response to an Alcock question, said he obtained some information on the fingerprint card from Shaw while he was by a wash basin and other parts of it in front of his (Habighorst's) desk.

"Did you abuse him physically?" asked Alcock.

"No," was Habighorst's answer.

"Did you make him promises of any nature?" asked Alcock.

"No," said Habighorst.

"How long was Mr. Shaw in the Bureau of Identification?" continued Alcock.

"Approximately 30 minutes," he answered.

"Did you have occasion to question him during this time?" said Alcock.

"Other than the information for the fingerprint card," Habighorst answered, "no, there were no other conversations."

Alcock got up and went over to Habighorst on the witness stand. He asked Habighorst if he recognized the document, labeled State Exhibit No. 60.

Officer Identifies

Card Signed by Shaw

Habighorst looked at it. "This was one of the first cards we made out," he said. "It was discarded because of the lightness of the ink."

"Is this your signature?" asked Alcock.

"Yes," said Habighorst.

"Is this the defendant's signature?" Alcock continued.

"Yes," said Habighorst.

"Did the defendant make any corrections or deletions on it?" asked Alcock.

"No," replied Habighorst.

"Was he requested to read it?" queried Alcock.

"The defendant requested to

read it," answered Habighorst.

The State surrendered Habighorst to the defense. William Wegmann took up the questioning.

"Isn't it a fact that Mr. Shaw's attorney was excluded from the Bureau of Identification?" asked Wegmann.

"He was there for a time," said Habighorst. "If he was excluded, I don't know why."

"Was Mr. Shaw's attorney present when he signed the fingerprint card?" questioned Wegmann.

"Yes, sir," replied Habighorst.

"Are you sure?" pressed Wegmann.

"I recall he was inside the door," said Habighorst. "I would say he was more inside the Bureau of Identification than

outside the door in the booking area."

"Did you see the field arrest record of Mr. Shaw?" continued Wegmann.

"Yes, after fingerprinting him," said Habighorst.

"Isn't it a fact that attorneys are excluded from the Bureau of Identification?" probed Wegmann.

"Yes, sir," answered Habighorst.

"Then if he was in there, wasn't this a direct violation of regulations?" asked Wegmann.

"It wasn't my responsibility to screen people coming in and out of the Lockup," said Habighorst. "I don't know how he got in."

"Isn't it a fact that you saw the arrest register on Mr. Shaw before he was fingerprinted?" asked Wegmann.

"I never saw it before it was filled out," said Habighorst.

"From whom did you get the personal information on the card?" Wegmann asked.

"From Mr. Shaw himself," answered Habighorst.

"Was his attorney there when you got the information?" continued Wegmann.

"I couldn't say," answered Habighorst.

Witness Not Sure

Attorney Was Present

"Was Mr. Shaw's attorney there when you got an alias?" asked Wegmann.

"He could have been," said Habighorst. "I don't know."

Judge Haggerty asked Habig-

horst how far the defendant was from his attorney at the time of the questioning for fingerprinting.

"I would say 20 feet," said Habighorst. "As far as I am from Mr. Alcock."

"That's about 30 feet," said Judge Haggerty.

"Were you speaking in a loud voice or a normal voice to Mr. Shaw?" asked the judge.

"I was speaking in a normal voice to him," said Habighorst. "I couldn't honestly say the attorney did or did not hear us."

"Did Ivon tell you that Mr. Shaw was not to be questioned?" asked Wegmann.

"I don't recall," answered Habighorst.

"Did you advise him of his constitutional rights?" probed Wegmann.

"No," said Habighorst. "I explained the booking procedure to him."

"Did you tell Mr. Shaw this (booking procedure) had to be done before he was released?" asked Wegmann.

"Yes," said Habighorst.

Alcock resumed questioning of Habighorst.

"Did you know that the district attorney's office was investigating Mr. Shaw?" asked Alcock.

"No," said Habighorst.

"Was the defendant reluctant in his answers to your questions?" Alcock asked.

"No," said Habighorst, "he was most cooperative."

"Did he ask for his attorney?" said Alcock.

"No," answered Habighorst.

"Did you participate in the district attorney's investigation?" concluded Alcock.

"No," Habighorst said.

With that, the state said it had finished its arguments, and Judge Haggerty recessed the arguments for a short while before the defense came back for some traversing.

During questioning of Ivon, the state asked about circumstances surrounding the arrest of Shaw.

Ivon Says Lawyers Conferred with Shaw

Ivon said that Salvatore Panzeca, an attorney in the law office of Wegmann and Wegmann, and Edward Wegmann conferred with Shaw during the afternoon of March 1, 1967.

"Did Mr. Shaw ask for coun-

sel during your questioning?" asked Alcock.

"Yes," said Ivon. "And I asked him to get one. He attempted to locate Mr. Wegmann first and as a last resort called Mr. Panzeca."

"Did you have occasion to place Mr. Shaw under arrest?" continued Alcock.

"Yes, in the small office from the investigators' office," Ivon replied.

"Was either Mr. Wegmann or Mr. Panzeca there?" asked Alcock.

"I believe both were there," Ivon answered.

"Did you advise Mr. Shaw of his constitutional rights?" Alcock asked.

"Yes," said Ivon.

Ivon said he told the defendant that he had a right to remain silent, that anything he might say could be used against him. Ivon said the attorneys were present.

Ivon testified that on the trip to the Central Lockup, he (Ivon) drove the car, Oser was in front with him, and on the back seat were Shaw, Loisel and Edward Wegmann.

"Were there any questions of

the defendant on the ride to the Lockup?" asked Alcock.

"No," said Ivon.

"Did you have occasion to question him any more?" asked Alcock.

"I didn't," Ivon replied.

Defense Centers on Arrest Records

Ivon was cross-examined by Dymond. The defense centered on arrest records.

He showed the original arrest record of Shaw and asked Ivon if he had seen it before. "I have," said Ivon.

"Did you examine the original arrest record?" asked Dymond.

"I don't know if I did," said Ivon.

"I show you the field arrest report and ask you if this is your handwriting?" questioned Dymond.

"It is," agreed Ivon.

During ensuing arguments, Alcock told the court that the State was saying the alleged statement (fingerprint card) was made during fingerprinting

of the defendant, and it was not made to Ivon but to Habighorst. Later, Alcock said the State was attempting to prove that it was the free and voluntary signing of "an inculpatory statement."

Dymond asked Ivon, "Was Edward Wegmann present in the Bureau of Identification?"

"I saw him by the door," said Ivon, "but I don't know if he was in there."

"Do you know if Mr. Panzeca was there?" asked Dymond.

"No, he wasn't," replied Ivon.

"Do you know if any of Mr. Shaw's attorneys was there?" continued Dymond.

"I don't know," answered Ivon.

That brought on Habighorst. Mr. Parker was the second witness called during the morning.

She said she is now employed by Rubenstein Bros. clothing store, but she said that in December, 1966, she was employed by Eastern Air Lines as a hostess in the VIP Room at New Orleans International Airport.

Asked specifically about Dec. 14, 1966, she said she worked the 8 a.m. to 2 p.m. shift and she said that sometime between 10 a.m. and noon Shaw came in with another man.

Alcock had just walked behind Shaw and asked Mrs. Parker if she ever saw him in the VIP Room. "Yes, sir, I have," she replied.

She said no one else was in the room except the two men and herself. She said they walked into the room and up to the guest register. She said each VIP Room visitor was supposed to sign the register when he was about to leave.

Mrs. Parker said that, after Shaw and the other man walked to the table holding the register, they stood there "and passed a few words." She said one of the two then picked up a pen and signed the book. The witness said she was only two or three feet from the men at the time.

She said she could not remember the man with Shaw signing. She said that after signing the book, Shaw looked back over his shoulders at her twice.

Mrs. Parker said that after the men left she looked at the signature, adding "It's custom-

ary."

Witness Identifies Signature in Book

She was then asked to identify the Eastern VIP guest book and pointed out a signature on the last line of a page as the one Shaw had signed.

Alcock asked her what the name was.

"Clay Bertrand," she answered.

"And this name was signed in your presence?"

"Yes, it was," she replied.

Mrs. Parker said she worked in the VIP Room from Nov. 11, 1966 until April 21, 1967 and has been with Rubenstein's since then.

Under cross-examination, Mrs. Parker said she was a fulltime employe of Eastern and that her only duties were to serve as hostess in the VIP Room.

She said that when she went to work for the airline the room had not been opened too long and that some entire days would pass without anyone using the room. She said the most people who visited the room on one of her shifts was four or five with the exception of one party that was held in the room.

Mrs. Parker told Dymond that entrance to the room was gained through the use of a key. She said there may have been as many as 12 keys to the room available, but usually only four persons a shift had one.

She said she had a key, but that they never let anyone use it.

When Shaw and the other
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man entered, said Mrs. Parker, she was sitting in the back of the room and was unable to see who let them in, and when she walked toward the front she saw only the two men.

She said she did not know who would have been on duty during the 8 a.m. to 2 p.m. shift Dec. 14, 1966, but she believed Eastern records would indicate this, Dymond asked her this as he attempted to learn

the names of the four persons who would have had keys to the room and would have been on duty at the time the witness said Shaw and the other man were in the room.

She also told Dymond she had given the names of persons who had keys to the District attorney's office.

Mrs. Parker said she was first contacted by the office in 1967, but she does not remember the date or the month.

Dymond asked if she was contacted by the office before or after the preliminary hearing (March 14-17, 1967), and she said she did not recall, but remembered it as being "late in the summer" of 1967.

Mrs. Parker Says She Admired Gray Hair

She told Dymond that both men who came into the room were tall and dressed in business suits. She said he remembers Shaw "because I admired his pretty gray hair" and because of his size ("You don't see many men that big.") The second man, she said, did not interest her. Neither man wore a hat, she testified. She said Shaw was wearing a grey suit. Asked about the color shoes he wore, she said: "His feet didn't interest me."

Dymond asked if she knew that several months after the assassination of President Kennedy, the name Clay Bertrand came into the news. She told Dymond that when she saw "his" picture on television, she told her son "I've seen that man before."

At this point it became apparent that the witness was talking about having seen Shaw's picture on television in 1967 and Dymond was still questioning her about the name Clay Bertrand coming into the news within months after the assassination.

Dymond asked if she recalled when this occurred, or if it was six months after the assassination. She said she could not remember.

Pressing to find out when she told her son she recognized Shaw's picture, Dymond asked if it was within four years of the assassination.

"I don't remember the date,"

She said.

"A year?"

"I don't think it was a year."

"Two years after?"

"I can't be certain."

"Would you deny it was as much as four years?"

"I would not deny that; I talk to my son daily."

Dymond asked her why, when she recognized the man, she did not go to the FBI.

She said it was not her business, and she could see no reason for getting involved. She said that when she was contacted by the district attorney's office, it "frightened me to death; I didn't know what he wanted."

Mrs. Parker said she never saw Clay Shaw before Dec. 14, 1966.

Dymond then selected dates in December, 1966, and asked Mrs. Parker to remember who might have signed the guest register on that particular day. She said she could not.

Dymond then asked if she remembers anyone who had signed, and she said she remembers John Mecom, owner of the New Orleans Saints, and David F. Dixon, executive secretary of the Louisiana Stadium and Exposition District.

Dymond asked when, after Dec. 14, 1966, was the next time she saw Shaw. She answered that was Jan. 21, 1969, when jury selection began.

"Isn't it a fact that when you looked at him in the courtroom, you said that is not the man?"

Mrs. Parker denied this, and Dymond continued: "Isn't it a fact that only when they threatened to give you a lie detector test . . . you said, 'Yes, that's the man?'"

"I was not threatened, I was asked," she said.

Argument Develops

Over Test Transcript

Alcock immediately asked for a subpoena of Capt. James Kruebe, a lie detector expert for the New Orleans Police Department and for the transcript of the lie detector test taken by Mrs. Parker. Judge Haggerty called a recess.

When the trial resumed Dymond and Alcock engaged in a legal argument regarding whether the defense had opened the door regarding Mrs. Parker's test. Dymond maintained that lie detector tests and

their results are not admissible as evidence, and the state argued that the defense tried to show that the witness was threatened.

Judge Haggerty ruled that if the defense had not used the word "threatened," there would be no basis for an argument, but since it had he would permit additional questions.

Alcock then asked Mrs. Parker if she took such a test and she said she did. She said she was not threatened with the test.

Alcock asked her if she was ever shown any pictures to identify. "Yes," she answered, and said she was shown "about 35 to 40 pictures."

"Did you identify any?" asked Alcock.

"I did. . . Mr. Bertrand."

She was asked who was in the room with her when she took the lie detector test. She said one man, but she did not know who he was.

The next witness called was Capt. Kreubbe. He was questioned in relation to his being qualified to give testimony as an expert on lie detector tests; but after several questions, Judge Haggerty told Alcock that, if he ruled on Kreubbe's expertise, he still would not permit him to give questions and answers about the test he administered to Mrs. Parker. He said he would only allow him to testify that he administered such a test "and that's all."

He said he would not permit the state to use his testimony to "try to bolster the testimony of the previous witness."

Capt. Kreubbe Tells of Giving Lie Test

Under Alcock's questioning, Kreubbe said he did administer the test to Mrs. Parker the night of Monday, Jan. 27, between 9:05 and 10:10 p.m. He said there was no one else in the room and that she was brought to his office by Numa F. Bertel, an assistant District attorney.

"Did Mrs. Parker ever indicate she did not want to take the test?"

Dymond objected that the question was irrelevant, but the judge permitted the question.

"No, sir, she was very willing; very cooperative," said

Kreubbe.

Richard Carr, sitting in a wheel chair, was the last state witness called during the morning. He remained in his wheelchair on the floor in front of the jury and between the state and defense attorneys.

He said that the day of the assassination he was on the floor of the new courthouse in Dallas at Houston and Commerce sts., facing Dealey Plaza.

He testified that, as the parade was going towards the Texas School Book Depository, he noticed a man in a 5th floor window, wearing a light hat. He said he saw him later "turning toward town on Commerce."

Carr said he heard a single shot, and then after a slight pause, three rifle shots fired from a high-powered rifle.

The defense objected, and the state then attempted to qualify Carr as an expert on the sounds of shots.

Garrison brought out Carr's wartime record, and Judge Haggerty said he would permit the witness to testify that he heard rifle shots.

Garrison asked him to continue with his story.

Carr said that the man he saw in the fifth floor window was wearing a felt hat, heavy rim glasses with heavy ear pieces, a tie, white shirt and tan sport coat.

He said the first shot he heard sounded like small arm fire, and then he heard three shots in succession. Garrison asked if he could tell where they sounded as though they were coming from, and Carr indicated the grassy knoll.

Garrison asked if after he heard the shots he noticed any unusual movements.

Three Men Were Seen Getting Into Automobile

Carr said he was able to observe three men coming from the area of the book depository building and getting in a Rambler station wagon. The vehicle he said was parked on the wrong side of a one-way street. One of the three men appeared to be a Latin, and Carr later explained he could not tell if the men came from the build-

ing or from behind it.

The three entered the car and it took off almost immediately. The fourth man, he continued, came across the street on Houston and appeared to be in a "very big hurry" turning frequently to look over his shoulder "as though he was being followed."

Carr said he gave this statement to the FBI, and the district attorney what he did as a result of his conversation with the FBI.

"I done as I was instructed,"

he answered. "I shut my mouth." He told Garrison he was never called before the Warren Commission.

On cross-examination, Carr told Dymond it was about an hour and 15 minutes after the assassination before he knew what had happened. He said he was aware after it happened "that something was wrong, but I didn't know what."

"I heard gunshots," he said to Dymond. "I didn't think, I knew."

Dymond asked if he had drawn any conclusions from this.

"I had conclusions, yes, I did. I concluded that someone was shot or shot at."

Carr also said he detected the presidential limousine "gathering speed and moving on" and this he considered "very unusual."

Attention Drawn to Dealey Plaza

He said his attention was first drawn to the commotion in Dealey Plaza "and the people running to the area that I identified."

Regarding the men leaving the book depository building area, Carr said he couldn't tell whether they were leaving from a side entrance or from an entrance behind the building.

He said there was not too much traffic on Elm st. at the time of the shooting because the police had blocked it off to traffic for the motorcade.

Carr said that as he watched the commotion down below his vantage point, he saw the three men running for the car and a fourth man running also.

Carr also claimed that upon hearing the three successive

shots he saw one hit the grass, but he said he did not examine the area later.

The morning session began with Dr. Nichols on the witness stand for conclusion of direct questioning by the state which started Monday.

Assistant DA Alvin V. Oser opened his brief questioning with the same question he started to ask Monday, and that was a hypothetical question. He asked Dr. Nichols if the same stimulus caused Gov. Connally to react as caused President Kennedy to react, how fast would this stimulus cause Connally to react.

Dr. Nichols said it was his opinion that Connally would have reacted almost simultaneously with the President.

Before tendering Dr. Nichols to the state, Oser asked him to compare some photographs, made from frames of the Zapruder film, and comment on the reaction of President Kennedy depicted in the film.

He was shown pictures of the President after he was struck in the head, and Dr. Nichols said his comparison indicated that the President's head and shoulders had moved to the rear.

Oser then asked, based on his examination of the film, photographs and slides, what the effect would have been of a stimulus applied to the rear of the President's head. Dr. Nichols said that, if the stimulus was of the same magnitude as that of the exhibits, the head and body would have moved to the front.

Witness Believes JFK Hit in Front

Dr. Nichols' replies backed up the opinion he expressed in his Monday testimony, that the shot which hit President Kennedy was fired from the front.

On cross-examination, Nichols told Dymond he was not in Dallas the day of the assassination, and he then explained in detail the procedure he would follow in performance of an autopsy of a person who died of a head wound.

He said this would include study of X-rays of the body, photographs of the body and wound, measurements, and the affected area and vital organs.

He indicated a month might

be required before he would be able to issue a final diagnosis, although a provisional diagnosis would be possible in much less time.

Dymond also asked him how he determined the point of entry and the point of exit of a bullet wound.

Dr. Nichols said this "depends an awful lot on the nature of the gunshot wound," and he said that if motion pictures of the shooting were available he would study them as well as obtain eyewitness testimony. He added that every situation is different.

"Ordinarily you wouldn't examine the victim?" asked Dymond.

"Oh, no," answered Dr. Nichols, "we'd do a complete, total autopsy."

Dymond asked again for the procedure he would follow, and Dr. Nichols repeated, this time with a little more detail, how he would go about the autopsy.

He said he would dissect all parts of tissue involved in the wound, treat them chemically so they would harden, and then study them under a microscope.

He said the brain would also have to be treated chemically and then studied.

Requests to View X-Rays Are Denied

Dymond then asked Dr. Nichols if he saw X-rays of President Kennedy; and Dr. Nichols said he requested to see them, but his requests were denied.

He then said that the first time he saw the Zapruder film was about two weeks ago, in Kansas City, and that the first time he saw the slides — made from the film — was last Monday morning.

Dymond asked Dr. Nichols if he expressed the same opinions he expressed during the trial in the journal of Archive of Pathology in 1967. Dr. Nichols asked Dymond if he might see the article, and Dymond said he did not have it.

"It doesn't exist," said Dr. Nichols, adding he never wrote an article pertaining to President Kennedy.

Dymond then asked if he considers himself a ballistics expert.

Dr. Nichols then said that, in

connection with the assassination, he has conducted experiments in the laboratory using a Mannlicher-Carcano rifle; and he has fired the rifle into ribs and wrists and examined the bullets. "Yes, I proclaim a degree of proficiency in ballistics to this extent," he added.

He also told Dymond he attended a one-hour lecture on the subject of ballistics, conferred with ballistics experts and removed bullets from shooting victims' bodies and testified in court.

He said of his own experiments, bullets fired into human wrists and ribs have been mutilated, and those fired into a mattress have remained pristine.

Dr. Nichols then attempted to make a presentation of his studies which he said he had copyrighted, but Dymond said that if the state wanted him to go into it, "That's their right."

Alcock argued that Dr. Nichols was attempting to make the presentation in answer to Dymond's question.

Dymond countered that "anyone can copyright anything that is unique and original," and he said the "article wouldn't be evidence of his training" in ballistics.

Dr. Nichols, obviously irked by Dymond's use of the word "article" injected that his writing an article "is a figment of someone's imagination."

Dr. Nichols Again Asked of Training

Dymond asked again if his sole training was a one-hour lecture, conversations with police officers and an experiment in the laboratory.

"Were you ever qualified as a ballistics expert?" asked Dymond.

"To the extent that I would identify missiles removed from a body," he answered.

Dymond then questioned him about his expertise in photography, as Dymond has maintained that Dr. Nichols' testimony was more that of a photographic expert than an expert in forensic pathology.

Dr. Nichols said he has used cameras since he was 10 years old, that as a professor of pathology he has access to a far range of cameras, and that he uses them and instructs

students in the use of them.

He said he had no formal training in the area of photography.

During the next series of questions, Dr. Nichols told Dymond that he is suing the federal government to obtain possession of clothing that President Kennedy was wearing when he was assassinated.

Dymond asked him if he knew the President was wearing a back brace on the day of the assassination, and Dr. Nichols said he did; and he said this was the reason the President's body remained upright.

"Do you know that as the shot in Frame 313 was fired, the President's limousine accelerated sharply?" asked Dymond.

Dr. Nichols said he did not know the speed of the limousine but he "assumed the speed of the limousine was practically constant" in Frames 313-314-315 of the Zapruder film. (The President received the shot in the head in Frame 313.)

Dymond asked more questions about the speed of the limousine ("Nowhere did I know how fast the limousine was going," said Dr. Nichols), and then asked if sudden acceleration might throw an occupant backwards.

"It did not throw the other occupants back," said Dr. Nichols.

Dymond asked if he made any other assumption or took into account the speed and direction of the wind. "The speed and direction of wind are inconsequential as to the direction of the bullet," asserted Dr. Nichols.

Witness Is Asked of Delayed Reactions

Dymond's next series of questions related to delayed

reactions, and he asked if the doctor had heard of persons being stabbed or shot and not realizing at the time that it had happened.

Dr. Nichols said this is possible, but not to a person riding in an automobile who is waving to the crowd; and he added that President Kennedy was normal and that his doctor had examined him and found him fit and well.

Dymond asked him if he ever met Gov. Connally.

"I've tried many times to get an appointment with Gov. Connally, but he has not answered my letters."

Dymond then asked him if he ever attempted to determine the direction of a shot from a photograph. Dr. Nichols said this was very "tricky and very misleading," but he said if the bullet enters and emerges, it is possible to determine a possible angle from which the bullet was fired.

He then explained entry and exit wounds. In most cases, the entry wound is smaller than the bullet itself; and the exit hole is larger.

The doctor then said he is suing the federal government for permission to see the photographs and X-rays of President Kennedy also.

Dymond then asked if, in

fact, it was not very important for the witness to be given access to photographs and X-rays to learn if his opinion is right or wrong.

Dymond asked if he would dispute the point of entry and exit on the basis of photographs, and Dr. Nichols said it would depend on who examined the body.

Dymond asked if he would question the man's ability or honesty, and Dr. Nichols said he would have to consider his ability, qualifications and previous experience; and he suggested that the person with the same ability, qualifications and experience as himself might overlook something.

He told Dymond he wants to see the autopsy pictures and X-rays "to know the truth."

Dymond then asked if he wants to see them mainly to find out if his own opinion is right or wrong, and Dr. Nichols said he wants to see them because he would like to confirm his opinion.

Dymond said he was finished; and on re-direct Oser asked Dr. Nichols to identify a Mannlicher-Carcano that was used as an exhibit in the case. The

doctor said it is a rifle he purchased Oct. 10, 1968, and he said he used six similar rifles in his experiments.

On re-cross examination, Dymond asked only one question and that was whether all Mannlicher-Carcano rifles are 6.5 millimeters. Dr. Nichols said they are not, and he said there are some 7.2 and 7.5 millimeter Mannlicher-Carcano rifles.