

Subpena 2,500, Shaw Demands

Attorneys for Clay L. Shaw moved today to subpoena some 2,500 persons—all listed in the "jury wheel" from which Criminal District Court jurors are selected—for the current hearing on moving Shaw's trial outside New Orleans.

Judge Edward A. Haggerty Jr. said he would rule on the motion later today.

THE PURPOSE would be to question the prospective jurors on whether they could render an impartial decision in Shaw's trial on a charge of conspiracy to kill President John F. Kennedy.

PREVIOUSLY, THE JUDGE had indicated that he would call members of the March jury venire—a much smaller group—to undergo such questioning in the hearing. This might make it possible to begin the trial in April, if the trial is not shifted to another location.

Some courtroom observers felt the defense motion to subpoena the entire list of the jury wheel could delay the trial by a matter of months or years.

The reason would be that a juror who underwent questioning in the current hearing might be legally ineligible to sit as a juror in the actual trial.

The jury wheel is a continuing device into which are fed enough names each month of prospective jurors to keep

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the number at about 2,500. A random group of names is drawn monthly to make up that month's venire.

All the witnesses called today were newsmen or news executives, brought to the stand by the defense in an effort to prove that publicity about the case has made it impossible for Shaw to get a fair trial within 100 miles of New Orleans.

In the afternoon session, Mrs. Rosemary James, a States-Item reporter, was questioned about a book she co-authored about the Garrison probe with another States-Item reporter, Jack Wardlaw.

THE BOOK, ENTITLED "Plot or Politics?—The Garrison Case and Its Cast," was introduced into evidence.

Mrs. James said the book, published last September by Pelican Publishing House here, has had a total circulation so far of about 2,500 copies.

Defense attorneys attempted to ask Mrs. James whether a picture appearing in the book is a faithful representation of the scene outside the court building during Shaw's preliminary hearing and also where she got a picture of Shaw and another of Lee Harvey Oswald which appear in the book. The judge sustained objections by the state to both questions and Mrs. James was excused.

The second afternoon witness was Bill Reed, news director of WWL-TV. He was questioned about a number of television shows broadcast on the station and the transcripts and film of several were entered into evidence.

Reed testified his station had extensive coverage of Shaw's arrest and the preliminary hearing at which Shaw was bound over for trial.

REED TESTIFIED that he personally has formed a fixed opinion as to the guilt or innocence of Shaw. Judge Haggerty stopped him from answering a question as to whether he believes there was a conspiracy to kill President Kennedy.

Today marked the second day of the hearing. It was marked, as was yesterday's opening, by clashes between Haggerty and defense attorneys over whether publicity about Garrison's assassination investigation is distinguishable from his case against Shaw.

The defense contends that all publicity about the assassination probe harms Shaw's chances of getting a fair trial.

Garrison says he has been careful not to say anything about Shaw's charges, and that nothing else is relevant to the change of venue motion. The judge has thus far supported Garrison on this issue.

On the stand longest this morning was George W. Healy Jr., executive editor of the States-Item and The Times-Picayune. He said he thought the assassination probe story, which was originally broken by the States-Item, was the biggest news story of the past year.

Both papers, he said, have attempted to be completely objective in their coverage of the story.

DOING MOST of the questioning of witnesses this morning were Assistant District Attorney James L. Alcock for the state and attorney F. Irvin Dymond for the defense.

Shaw attorney William Wegmann clashed frequently with Judge Haggerty this morning during the questioning of David Wagenvoord, president and general manager of WWOM-TV and radio.

Wagenvoord was questioned about two programs. One was a "Hot Seat" television show during which comedian Mort Sahl and author Mark Lane were questioned on the Garrison probe by Wagenvoord.

THE SECOND program was on radio, consisting of a tape of an interview by newsmen of Garrison and a Ramparts Magazine writer.

The disagreement between Haggerty and Wegmann resulting from a decision by the judge not to admit the radio tape as evidence until it had been determined how much of the tape was used on the air.

The state objected to the admission of the tape as evidence until it was known how much of it was used, contending that the only thing that mattered is what part had a chance to influence prospective jurors.

Wegmann contended it did not matter how much of the tape was used, that it is admissible if even one person eligible to become a juror was attending the press conference Dec. 26.

He said that even if Garrison talked about the case to one prospective juror in a barroom, that would have a hearing on the change of venue hearing.

HE CONTENDED that the information on the tape coming out of the press conference is disseminated even if one prospective juror is present.

Haggerty had ruled first that the tape was admissible, then changed his ruling.

Wegmann then showed Wagenvoord a copy of a press release issued by the DA's office yesterday concerning the hearing. He asked Wagenvoord if as president of WWOM he decided "what goes on" television and radio.

When Wagenvoord said he did make the decisions, Wegmann asked him, "Do you draw any distinction between the Clay L. Shaw case and the Garrison probe?"

THE STATE objected to this question and Judge Haggerty immediately agreed that the witness need not answer.

Judge Haggerty said, "It makes no difference" whether Wagenvoord makes a distinction.

Wegmann countered "All day yesterday you talked about prospective jurors. This man is a prospective juror."

The attorney's reference was to repeat remarks by Judge Haggerty yesterday that the test to determine whether a change of venue is called for is whether prospective jurors have been influenced to the point that they could not give a defendant a fair trial.

WEGMANN asked Wagenvoord, "could you give Clay Shaw a fair trial if you were chosen as a juror?"

"Yes," Wagenvoord quickly replied.

"That's all of the questions," said Wegmann.

Haggerty commented, "Now we're getting down to the meat of the matter."

The first witness today was John Vath, an official of WSMB Radio.

HE TESTIFIED concerning two Joe Pyne interview programs aired over the station which had as guests Edgar Eugene Bradley of California and Edward Butler of New Orleans. Bradley, like Shaw, is charged with conspiracy in the President's death. Butler is head of INCA, an anti-Castro organization in New Orleans.

Vath was asked if either of the shows to his knowledge pertained directly or indirectly to the Shaw case. He said he had no direct knowledge of this.

ALCOCK objected to admission of the tapes because no foundation had been laid by defense attorneys and that it is not known whether Shaw's name was mentioned in the programs.

Judge Haggerty said apparent admission of the material would have to wait until it can be heard.

The next witness was Healy. After Healy took the stand, his attorney, John G. Weinmann, provided the court with photostatic copies of States-Item and Times-Picayune news clippings relating to the assassination investigation. They were introduced into evidence.

HEALY testified that to the best of his knowledge, they were all the clippings published in both papers since March 1, 1967.

At that point, in response to a request by Dymond, Healy broke down the circulation figures of The Times-Picayune and States-Item within the city.

He explained the areas affected by the various editions of the five Times-Picayune editions and five editions of the States-Item.

Then he listed for the court the parishes with the smallest Times-Picayune circulation: Avoyelles, Caddo, Caldwell, Grant, Jefferson Davis, La-Salle, Lincoln, and Madison.

In answer to a question by Judge Haggerty, Healy said that The Times-Picayune is read throughout Louisiana, but that the readership is much greater in the "retail trading area."

This, he described as Orleans, Jefferson, St. Bernard and St. Tammany parishes.

ASKED BY Dymond what he considered the biggest news story of the past year for the state, Healy replied:

"In my opinion, it was the investigation by Mr. Garrison of the assassination of President Kennedy."

Dymond then attempted to get Healy to testify on whether he differentiated between Garrison's investigation and the charge against Shaw.

After objections by Alcock, Judge Haggerty instructed Dymond to ask whether the editor differentiated in the treatment of news coverage of the Warren Report, Garrison's investigation, and the case against Shaw.

"From a news point of view, I would regard them all one to another," said Healy.

Asked about coverage by specific reporters, Healy said in the early stages of the investigation, the principal reporters were David Snyder, Rosemary James and Jack Dempsey of the States-Item.

Healy added that Hoke May and Ross Yockey "covered portions of this story."

He said now general assignment reporters generally handle the coverage.

DYMOND asked next whether The Times-Picayune or States-Item had been furnished with a so-called "master file" of Garrison's investigation.

The judge sustained an objection by the state.

At this point, Healy identified a copy of today's Times-Picayune, which was introduced into evidence, as was a press release, which was issued to the newspaper yesterday by Garrison.

Asked whether he had seen the press release, Healy said: "Yes, it came in while I was at the States-Item's city desk."

UNDER questioning by Alcock, Healy said that he did not distinguish between types of stories. Whether a story is "favorable or unfavorable is a matter of opinion," Healy said.

Both papers, Healy testified, have attempted to be completely objective in their coverage of the story.

Alcock then asked the editor whether he had assigned reporters to cover a cocktail party for Shaw.

"I had no knowledge of a cocktail party for Mr. Shaw," Healy replied.

Judge Haggerty then asked whether it could be assumed that the case was not arousing as much interest now as it had a year ago because general assignment reporters were covering the story.

Healy said that "the developments have not been as rapid in recent months as they were at first."

Copies of the circulation records Healy brought into court were also introduced as evidence and Healy was excused.

One of the last witnesses this morning was Alec Gifford, news director of WVUE-TV.

Judge Haggerty stopped him from answering a question from Dymond as to whether he would be able to serve on a jury and give Shaw a fair trial.

Assistant district attorney Richard Burns objected that Gifford could not serve as a juror in Shaw's trial because he does not live in Orleans Parish.

EVEN BEFORE Dymond had asked the question of Gifford, Judge Haggerty moved to shut off that line of inquiry.

Judge Haggerty was the first to make the observation that Gifford was not a resident of the parish, and therefore not eligible to serve as a juror.

Dymond contended that Gifford was an intelligent man, like jurors that would be selected in Orleans Parish.

Earlier Dymond asked Gifford if, in his job, he makes any differentiation between the Clay Shaw trial and the Garrison probe and attacks on the Warren Report.

Burns also objected to this question, contending that Gifford did not represent the average person that would be chosen as a juror and therefore his opinion as to whether there was differentiation had no bearing on the change of venue matter.

Dymond argued that the defense was trying to find out whether the television station, in its presentations to the public, relates the two matters.

Judge Haggerty upheld the state's objection contending that "it's not what he thinks, but what the public accepts."

GIFFORD'S appearance followed testimony by Maurice I. Rufort, an official of the Louisiana News Company, distributors of magazines and other periodicals in the city and in surrounding parishes.

Rufort testified that sales of the Ramparts Magazine which carries a story pertaining to the Garrison Probe were ten times as many copies in the area than is normal for the publication.

He also testified that a Playboy Magazine containing an interview with Garrison had sales approximately five or ten per cent higher than normal, and that from 70 to 75

per cent of his outlets for magazines and other material are located in Orleans Parish.

Dymond asked Gifford to identify some papers which Gifford said were records of Channel 12's TV instant poll, begun last Oct. 3. Gifford explained that people call the station and vote yes or no on the question of the day.

He said the first poll was held Oct. 3 and the question was "Do you have confidence in Jim Garrison?"

Alcock objected, saying he did not think the question had any relation to the Shaw case, "even though we got a favorable response."

LAUGHTER broke out. Judge Haggerty said "That's not going into the record. Strike that out."

The judge asked, "How do we know that poll wasn't fixed? And that Garrison didn't have 18 assistants and their families making calls?"

Alcock asked Gifford if it were possible to determine whether an individual called more than one time during a poll and whether the caller was a prospective juror.

"No, sir. No way at all," Gifford replied.

The state objected to all testimony on the poll, and the judge sustained the objection.

At this point, the court recessed for lunch.