

# Should Garrison resign? Will Shaw still be jailed?

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The Los Angeles Times editorial statement of March 4th on the New Orleans conspiracy trial of Clay Shaw is a masterpiece of malicious lying. There certainly must be a special place in hell reserved for the editorial writer who can say, "As weird a collection of witnesses as ever decorated a courtroom was brought in by the prosecution, only to destroy themselves by their own testimony... If there is one fact proven beyond all dispute in the Shaw case it is that Jim Garrison is unfit to hold public office."

Let us look at the facts! Did New Orleans District Attorney Jim Garrison conduct a public circus or a legal proceeding in charging Clay Shaw with conspiring with Lee Harvey Oswald and David Ferrie to kill former President John F. Kennedy? Did he have proper evidence against Shaw or was Shaw's involvement, as the Times claims, "based on the most tenuous of evidential supposition, along with a great deal of imagination by the prosecution,"?

Why, if Garrison had a proper case, did the jury return a verdict of not guilty? Is this verdict proof that Garrison had an "absurd

and malicious case?" And is Jerry Cohen, Times staff writer who covered the trial in New Orleans, justified in concluding that "The integrity of the Warren Commission, which Garrison tried to destroy, remains intact." (L.A. Times, March 2).

Those who say that Garrison should now resign or be "investigated" make it appear that the New Orleans District Attorney has such great personal power, and ability to misuse it, that single-handedly and without legal restraint, he was able both to arrest Shaw and maliciously subject him to the degradations and expenses of a trial. Quite the contrary is true.

Clay Shaw was arrested on March 1, 1967. He was booked under the Criminal Conspiracy Statute in the new Louisiana Code of Criminal Procedure, based on Napoleonic law. He was released on \$10,000 bond.

The pertinent portions of the Conspiracy statute says: "Criminal conspiracy is the agreement or combination of two or more persons for the specific purpose of committing any crime: provided an agreement or combination to commit a crime shall not amount to

a criminal conspiracy unless, in addition to such agreement or combination, one or more of such parties does an act in furtherance of the object of the agreement or combination.

"Where the intended basic crime has been consummated the conspirators may be tried for either the conspiracy or the completed offense, and a conviction for one shall not bar a prosecution for the other."

"Whoever is a party to a criminal conspiracy to commit a crime punishable by death or life imprisonment shall be imprisoned at hard labor for not less than one nor more than 20 years."

After the arrest Garrison had three legal routes for bringing Shaw to trial: a bill of information, a Grand Jury indictment or a preliminary hearing. Although only needing one of these procedures, Garrison proceeded to get both a Grand Jury indictment and, on March 1, 1967, a four day preliminary hearing by a panel of three judges.

The three judges on the panel ruled unanimously to have a trial. Chief Judge Bagert told newsmen: "This wasn't a question of guilty or not guilty. It was a question of

probable cause... Given what we got in there, I had no choice. Russo (the key prosecution witness) stood up. There were some minor discrepancies, but you tend to doubt, you have to doubt it, when here is a 100 percent story every time."

Naturally, the judges could not have commented on the guilt or innocence of a defendant in a forthcoming trial. They and the Grand Jury, however, were ruling on whether or not the state had sufficient evidence to bring Shaw to trial. Judge Bagert said, "Think of what the alternative would be to cut him (Shaw) loose when the defense presented no real case. They were just grabbing at straws."

When the trial finally began, in January 1969, Shaw's attorney again had a chance, after the prosecution presented its case to ask presiding Judge Haggerty to dismiss the case for lack of sufficient evidence. They did do so, asking the judge to grant a motion for a directed verdict of acquittal, but the judge denied this motion.

This history shows that not only Garrison but four judges and a Grand Jury believed the evidence against Shaw dictated that a trial be held. Claiming under these circumstances that Garrison is unfit to hold public office and should resign because he did bring Shaw to trial is nothing, then, but sheer nonsense and a malicious attempt to confuse the public. If a Grand Jury indicts a person, a District Attorney must prosecute or he is really demonstrating unfitness.

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It is interesting to note that the L.A. Times, and the others who are calling for Garrison's resignation, do not voice a word of criticism about the preliminary hearing panel, the Grand Jury or the trial judge. Just a mention of these judicial bodies and their decisions explodes the argument

that Garrison is automatically unfit to hold public office because "he" brought Shaw to trial.

What then about the "weird" prosecution witnesses who destroyed themselves with their own testimony? The State of Louisiana brought forward 49 individuals to testify against Shaw, 43 witnesses in the presentation of the case and 7 in rebuttal (one, Dr. John Nichols, a pathologist, testified two times). In past Free Press articles, we have covered the testimony of the first 43 in some detail so let us start here with the 7 rebuttal witnesses, and then briefly summarize the rest of the so-called weirdos.

The first prosecution rebuttal witness was Emmett Charles Barbe, Jr., the maintenance foreman

at William B. Reilly Coffee Company, New Orleans, where Lee Harvey Oswald had been employed. Barbe was Oswald's immediate supervisor and testified that he fired Oswald on July 19, 1963 because of excessive absences and indifference to his duties.

This testimony was important because Shaw's attorneys had called Marina Oswald as a defense

witness and she had testified about Oswald's life in New Orleans. She had testified that to her knowledge Oswald did not know Shaw, Ferrie, Perry Raymond Russo, etc; that Oswald went to work during the day and stayed home at night. But she had testified that prior to her leaving New Orleans on September 23, she had discovered that Oswald was out of work for three days without her knowing about it.

Barbe's testimony completely destroyed the image that Marina knew all about Oswald, his whereabouts and his friends. His testimony showed that Oswald had been out of work for two months, between July 19 and the end of September, without Marina knowing his whereabouts or source of

income during what was according to Garrison a critical period in the planning of the conspiracy.

Weirdo One—A man who has worked steadily for ten years at one job in supervisory positions, and whose testimony demolished that of Marina Oswald.

Second rebuttal witness, Eugene C. Davis, owner of a bar in the French Quarter in New Orleans. He testified that he was never known as Clay or Clem Bertrand.

This testimony was in answer to that of Dean Andrews, a New Orleans attorney, who testified before the Warren Commission in 1964 that, when Oswald was arrested in Dallas, he received a call from a Clay Bertrand asking him to defend Oswald. Andrews has been convicted of perjury because of conflicting statements he made before the Warren Commission and the New Orleans Grand Jury as to the identity of Clay Bertrand.

Garrison charged that Bertrand is Shaw, but during the Shaw trial Andrews claimed that he lied both to the Warren Commission and the Grand Jury and that there really had been no call requesting him to defend Oswald. He said that the

name came to mind because many years previously he had been introduced to a man named Clay Bertrand who he knew to be Davis.

There was no reason to doubt Davis as to his testimony, particularly as it conflicted with that of a convicted perjurer who testified as a defense witness... Therefore it's not accurate to call Davis "weird" and self-destructive.

Third rebuttal witness for the prosecution, Nicholas Tadin. Now here we have a real one. In the direct examination it developed that Mr. Tadin is a business agent for the Musician's Union and spends as many as six nights a week in the French Quarter. He is a responsible citizen and a former schoolmate of the judge. He has seen Shaw many times and can recognize him.

He has two sons. In 1964 they were taking flying lessons from David Ferrie. The boys greatly admired Ferrie. They are deaf and he was the first adult outside of their family to pay attention to them as human beings. However Tadin and his wife learned that Ferrie was a homosexual with a liking for boys and they were at

the airport every time the boys had a lesson.

As the questioning continues we learn that in the summer of 1964 Mr. and Mrs. Tadin (she testifies next and corroborates her husband's testimony) drive to the airport and see David Ferrie come out of a hanger with Clay Shaw. Mr. Tadin tells his wife, "Oh, that's Clay Shaw," (in a somewhat derogatory tone, as if to say there's proof of Ferrie's homosexuality) and she comments on Shaw's distinguished bearing and goodlooking hair.

According to the Tadin's, Shaw then goes to his car while Ferrie walks over to them. Tadin: "I see you have a new student," Ferrie: "That's not a new student. That's Clay Shaw, a friend of mine from the International Trade Mart."

The courtroom is hushed. Throughout the trial, and since his arrest two years before, Shaw has claimed not only that he did not conspire with Ferrie and Oswald but he did not even know them. Now here's this very non-weirdo witness proving Shaw to be a liar, and in relation to an alleged co-conspirator.

Cross-examination: Mr. Tadin. When did you come to the District Attorney's office with this information? Answer: This morning! (There's an audible gasp in the courtroom. A surprise witness has appeared at the very end of the trial. As I reported several weeks ago, in one of my little "scoops" from New Orleans, an employee of the District Attorney had stolen and given to Shaw's attorney a complete list of all prosecution witnesses and the substance of their testimony. So until Nicholas Tadin the defense had been demonstrating a magical ability to cope with witnesses who had not appeared at the preliminary hearing.)

The cross-examination continues in a tone of bafflement: Mr. Tadin, didn't you know that two years ago there was a preliminary hearing during which the question of Clay Shaw's relation to David Ferrie came up? Answer: Yes.

Cross: Well, why didn't you come forward then? Answer: I didn't want to get involved. Cross (in a rising tone of dripping skepticism): Well, why do you want to get involved now? Answer: Well, I was watching my TV last night, saw the report of this trial, knew the truth wasn't coming out and decided to call Garrison this morning.

Cross (dripping scorn, loudly): Mr. Tadin, do you ever lie? (The courtroom is quietly tense as Mr. Tadin remains quiet for a long time. What can he say? And then he says it, perfectly). Answer: Everyone lies sometimes but I'm definitely telling the truth now. End of cross examination. A one question re-direct by Assistant D.A.

Alcock: Mr. Tadin, do you ever lie under oath? Answer: No, Sir!

The judge declares a five minute recess because it's obvious the newsmen want to get to their phones after this dramatic development. I go out into the hall and talk to Louis Ivon, Garrison's chief investigator. Did Tadin really call the office just this morning? "Yes, but we knew about him a year ago. Dozens of people at the airport have told us of seeing Shaw and Ferrie together but no one

would agree to take the witness stand until Tadin called this morning."

I get a flash of insight about what it takes to be an investigator in a case of this enormous scope. Enormous patience. Fending off kooks who will manufacture testimony to suit so they can get their names in the papers. (That's why Garrison for a long time in this case insisted that each person who volunteered information to his office be given truth serum or a lie detector test). On the other hand, the frustration of coping with the ordinary citizen who could easily convince a jury of his credibility but who "doesn't want to get involved."

The recess ends. Mrs. Tadin takes the stand and confirms her husband's testimony. She says her husband called her at work and if it wasn't for her husband's feelings she still wouldn't want to get involved. Dymond, the defense attorney, tries to take advantage of Mrs. Tadin during cross-examination: Do you do everything your husband tells you to do? She makes it very clear that her husband

can't make her perjure herself, and is excused.

So much for rebuttal witnesses three and four. Weirdos? Certainly not. The Tadin's testimony, along with the other credible witnesses who have seen Shaw together with Ferrie and/or Oswald, is going to put Shaw in jail for perjury. According to Garrison, this will hopefully encourage others to come forward with information. Shaw, of course, can't be tried again for conspiracy because of the double jeopardy provision in American law. Garrison always stated that what he's done is lift

up a small corner of a conspiracy and there is a need to tug at this corner for as long as possible and uncover as much as possible so that democracy can prevail over invisible government.

Rebuttal witness five, Dr. John Nichols, pathologist. A serious, intent man who had qualified previously as an expert in forensic pathology (the study of damaged tissue and bone to identify the cause of damage for courtroom purposes). He spoke of the difference in bone damage caused by

Mr. and Mrs. Newman, who were standing within ten feet of the former President when the fatal headshot was fired told of seeing Kennedy pushed backward and to the left as his head exploded while they scrambled to the ground to shield their position, believing that the shots were coming over their heads from the grassy knoll.

Mr. and Mrs. Phil Willis, Mary Moorman, and Wilma Bond testified and had their famous photographs put into evidence, all contributing to the sense that more than one gunman was firing in those few seconds of terror at Dealey Plaza.

And then there was Abraham Zapruder and his famous home movie of the presidential limousine as the shots were fired. The Zapruder film was shown numerous times at regular speed, in slow motion, and in a slide projection where details of bodily movement could be most readily studied. This film shows the incredibly rapid backward movement of Kennedy as his head explodes, and the only rational explanation is that there was a shot from the front after he slumped forward from a shot in the back.

(The film, and testimony, also showed that Kennedy's movement could not be explained by an acceleration of the limousine. The limousine was slowing up, in fact, because the motorcycle officers in front stopped at the sound of the shots.)

The other explanation advanced by the supporters of the Warren Report for that sharp backward movement is that the explosion of the head caused severe internal pressures or an unusual muscular contraction which made the body

move to the rear in the direction of the bullet's source...I frankly think this conclusion is searching for straws on the part of those who refuse to accept the testimony of their own eyes.

Unfortunately, most newsmen refuse to accept the testimony of their own eyes.

Unfortunately, most newsmen at the trial fell into that category. When we first saw the Z film almost everyone was stunned by the impact of what they had seen. One young newsman literally staggered down the hall saying, "I don't believe it, I don't believe it. That shot had to come from the front!" The newsmen listened to the FBI experts say the shots came exclusively from the rear. It was amazing how the Emperor was

suddenly wearing clothes again simply because the authoritative sounding of the FBI laboratory had spoken.

We have already accounted for half of the witnesses brought forward by Garrison to establish his case. At the very beginning of the trial there were a bloc of witnesses as credible as the Tadin's who placed Shaw together with Oswald and Ferrie in Clinton, Louisiana. In that there were a number of mutually reinforcing statements, they can be said to be even more credible than the Tadin's.

There was Edwin Lee McGehee, a barber from Jackson, La. who gave Lee Harvey Oswald a haircut and recommended that he see then State Rep. Reeves Morgan.

Morgan, the second witness at the trial, testified Oswald came to his house and that he recommended Oswald register to vote in East Feliciana Parish. He told Oswald that this might assist him in getting employment at the East Louisiana State Hospital.

Then John Manchester, town marshal of Clinton, La., testified that he saw a strange black Cadillac near the voter registrar's office. As many Negroes were registering for the first time, Manchester was very aware of the possibility of an incident caused by strangers. He went over to the car, asked for identification from the man behind the wheel and was told that he was with the International Trade Mart in New Orleans. The town marshal identified Shaw in court as the driver of the car.

*"Rush to Judgement" author Mark Lane has recently completed interviews with the jurors in the controversial Clay Shaw trial. Lane, who also wrote "A Citizen's Dissent," has reached agreement with the Free Press to publish the results of these interviews. You will want to read how each juror, on a 0 to 5 scale, rated the credibility of key witnesses, and on what basis he arrived at the rating. That's in next week's Los Angeles Free Press.*

The registrar of voters, Henry E. Palmer, testified that Oswald came in to register. A civil rights worker Corri C. Collins testified that he saw Oswald get out of the back seat of the black car and go into the registrar's office. Collins noticed two men remain in the car and saw the town marshal walk over to them. Collins identified Shaw as the driver and Ferris as the other man in the front seat.

Another civil rights worker from the Congress of Racial Equality identified Shaw as the driver of the car and saw Oswald standing in line to register. Two women from the East Louisiana State Hospital then testified that Oswald came to the hospital to apply for a job.

This group of witnesses represented months of work in the Clinton area. These witnesses, and the Tadins, don't spell out conspiracy but they are credible enough to put

Shaw in jail on perjury charges. When that happens, will the Times continue to speak of weird ding-a-ling witnesses or will the editorial then read that an innocent man was railroaded?

The next witness was an ex-dope addict, Vernon Bundy, who testified that he saw Shaw give some money to Oswald on the Pontchartrain Lake Front and later picked up some pro-Cuba leaflets which dropped out of Oswald's pocket...Not an ordinary citizen but he certainly didn't crumble away in a mass of contradictions as the Times would have it. Bundy identified Shaw in court and Oswald from pictures. Four policemen testified as to Oswald's activities distributing Pro-Cuba leaflets.

The next witness gets a bit weirder, but let's see how much before we give him up in sacrifice to the Times editorial office. His name is Charles Spiesel, a New York City accountant. Spiesel testified that he met Ferrie in a French Quarter bar in June 1963 and started speaking to him because he had flown with Ferrie during the war. Ferrie then took Spiesel to a party where he met Shaw and overheard a discussion about killing President Kennedy. Shaw, who at first seemed amused by the conversation, finally asked a question about using a plane for the assassin's escape.

On cross examination, Spiesel revealed that he has large law suits against the City of New York

because communists are trying to hypnotize him. He began to look a fool but Shaw's main defense attorney, Dymond, began to press the psychological advantage he had gained beyond the point of reasonable return. Dymond asked that the judge and jury see if Spiesel could locate the house where the alleged party was held.

Spiesel did so on the next day, Saturday, leading judge and jury to two identical houses both of which Shaw used to own. He couldn't quite make his mind up which house he had entered to attend the party but it was later found out that Shaw still has social friends in one of the houses and has frequently attended parties there.

This was the first parade of Mardi Gras, by a good three hours, and at the end of it Spiesel wasn't quite as weird sounding as when he started out.

We have one more witness to discuss, Perry Raymond Russo, and he is the key to the conspiracy charge against Shaw. Russo is a former friend of David Ferrie. Ferrie died in February 1967 in peculiar circumstances after Garrison began his investigation but before Clay Shaw was arrested.

Russo claims that he was at Ferrie's house in September 1963, met Shaw and Oswald there and overheard a detailed discussion of how to kill President Kennedy. There was a discussion of cross-fire, escape for the gunmen at the sacrifice of a patsy, and alibis.

Russo repeatedly said in court that he did not take the conversation very seriously. Garrison and his aides, however, say that what Russo thought about it is immaterial because everything discussed at that meeting took place. Oswald wound up at Dealey Plaza as the patsy. There was a triangulated crossfire that killed the President and all the gunmen got away except patsy Oswald. Ferrie took a mysterious trip right after the assassination to a town where he said he would be during the alleged conspiracy discussion along the way waiting at a phone in a Houston skating rink for a communication from someone. Shaw wound up on the West Coast on November 22, where he allegedly told Oswald and Ferrie he would be. Technically, this is a conspiracy agreement for which all parties are liable.

But, dear reader, even if you are convinced that Garrison demolished the Warren Report, which I think he did in the recent trial, would you convict Shaw on the word of one young man who wasn't sure he heard an agreement. I think Garrison's office made a few mistakes in communicating with the jury, particularly along the line of motivation. We shall continue this trip next week