

SHAW ATTORNEYS ASSAULT JURORS' LISTS

Attorneys for Clay L. Shaw today pressed a broad attack on the Orleans Parish jury selection system as they sought to have the conspiracy indictment against their client thrown out.

Shaw was indicted by the immediate past grand jury on charges of conspiracy in the slaying of President John F. Kennedy.

Today's court action was a pretrial hearing for Shaw, who could go to trial late this month or early in October if the indictment is not quashed.

SEVEN CRIMINAL DISTRICT Court judges appeared today as witnesses before their colleague, Judge Edward A. Haggerty Jr., and were questioned closely on the use of women and Negroes in the makeup of grand juries.

Also testifying was Noel J. Rada, chairman of the parish board of jury commissioners, who described how names of jurors were put on and taken off the jury wheel.

Rada was vague on the point of just how many prospective jurors' names are on the wheel at any given time.

Senior Criminal Judge Bernard J. Bagert was responsible for selecting the grand jury which indicted Shaw and was the first witness at today's hearing.

BUT IT WAS MADE clear that the defense was ques-

tioning the general method of selecting grand juries, not the specific one Judge Bagert empaneled.

Under questioning, Judge Bagert said Negroes are on the jury as a matter of course. The judge described himself as a "workhorse" in a drive (sponsored by the States-Item) to get women to serve.

Judge Haggerty said he would hear arguments today and possibly tomorrow and rule by Sept. 18. If the indictment is not quashed, this would clear the way for Shaw to go to trial late this month or early in October.

Shaw, 54, is the only man charged in connection with President Kennedy's death in District Attorney Jim Garrison's controversial assassination probe.

Garrison alleges that Shaw conspired with Lee Harvey Oswald and David William Ferrie, both now dead, to accomplish the slaying of the President.

Judge Bagert was the first of more than 30 witnesses who have been subpoenaed by the defense for the pretrial hearing. The others include Garrison himself and Perry Raymond Russo, the state's star witness at the preliminary hearing at which Shaw was bound over for trial.

THE JUDGE testified that two Negroes served on the grand jury which indicted Shaw, but no women. He said

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PERRY R. RUSSO, right, the state's star witness against Clay Shaw, is accompanied by Assistant District Attorney **ANDREW SCIAMBRA** as he walks to Criminal Courts for today's hearing.



CLAY L. SHAW, charged by District Attorney Jim Garrison of conspiring to kill President John F. Kennedy, arrives for pretrial hearing to have the indictment against him thrown out.

Negroes have been on each grand jury he has empaneled. Under Louisiana law, women are not required to serve on juries but may volunteer.

Most of the state's questioning was handled by assistant DA James L. Alcock.

Judge Haggerty gave every indication at the hearing that it would be a limited legal proceeding, which he expected to conclude today.

GARRISON WAS not on hand for the opening of the hearing. Judge Haggerty announced, however, that the DA, who has been subpoenaed by the defense, had informed the court that he would be available.

Assistant DA Alcock arrived in court shortly before 10 a.m. to handle the state's side of the case. Immediately following him, were Albert V. LaBiche and three other members of the most recent Orleans Parish Grand Jury. LaBiche was subpoenaed by the defense.

A few minutes later, Cecil M. Shilstone and Joseph W. Rault, two key members of Truth and Consequences of New Orleans Inc., a group bankrolling Garrison's probe, took seats in the spectators section of the courtroom.

SHAW, LOOKING FIT, arrived promptly at 10 a.m. with his attorneys -- F. Irvin Dymond, William Wegmann and Edward Wegmann. He nodded to the press table, then turned to the jury box, where he shook hands with several spectators there.

He also greeted court attaches whom he had come to know during the long preliminary hearing back in March.

JUDGE HAGGERTY then took up a supplemental application for additional information from the state in its bill of particulars.

Judge Haggerty noted, "This is the third supplemental application for a bill of particulars."

He then proceeded to rule that the state provided legally sufficient answers to requests for additional information by the defense. The defense had asked for further disclosures in 12 different questions or paragraphs.

DYMOND OBJECTED and took a bill of exceptions in all 12 instances of the judge's ruling.

Dymond then asked the court to take into consideration additional testimony of witnesses who may be called

during today's hearing on the supplemental request for a bill of particulars.

Judge Haggerty indicated that he could not change his position on the rulings concerning the bill of particulars. Dymond said, "If evidence comes up that shows the court was wrong on the defense's supplemental application for a bill of particulars, there is nothing in the law that states you cannot reverse your opinion."

THE JUDGE THEN said he would consider the testimony.

He made it clear that testimony in the hearing would be strictly controlled. "There are certain questions that you cannot ask members of the grand jury," he said; "there are certain questions you cannot ask the witnesses. This is not an open hearing. A hearing on a motion to quash must be restrictive."

Judge Haggerty said, "I'm advising you in advance this is not an open hearing where you can ask the witnesses anything you want."

"**THERE ARE 35** or 36 witnesses who have been subpoenaed," he said. "I intend to wind this hearing up this evening or tonight," adding that he would go tomorrow if necessary.

He then called for a 10-minute recess to discuss which witnesses might be excused and "to review the rules of the game," with attorneys for the prosecution and Shaw.

After the conference, all witnesses except the seven Criminal District Court judges and the DA's legal staff were sequestered.

THIS CLEARED out one side of the courtroom and about 25 persons left for Judge Malcolm V. O'Hara's courtroom, which was made available for them.

The first witness called was Judge Bernard J. Bagert, who was questioned by Dymond about the selection of grand jurors:

Q. Judge Bagert, you are presently the senior judge; isn't that correct.

A. Yes.

Q. How long have you been a judge?

A. I was first commissioned on July 9, 1956.

Q. You empaneled the grand jury (whose term just expired)?

A. Yes.

Q. Give us an idea of how grand juries are selected.

At this point Alcock objected, saying all that was germane to the case was how this particular grand jury was selected.

Judge Haggerty overruled the objection on the grounds that defense attorneys were alleging that the entire selection method was wrong.

Judge Bagert answered the question:

A. Judge interviews members whose names appear on the jury venire and then pick 12 persons to serve on the grand jury. As far as myself, I select them in various ways. Sometimes I telephone them, send letters and subpoena prospective jurors. Then the ones I select, I subpoena again.

Q. I presume you personally interview the 75 prospective jurors whose names appear on the venire?

A. I did not. I talk to five or six on the telephone and have interviews with various others. I spoke with about 60 or 70. I would have subpoenaed all 75., but I just couldn't find time. It was the Mardi Gras season. I was conducting a regular docket and working from early in the morning to late in the evening.

At this point, Judge Haggerty told Dymond that March 27, 1967, was the date Shaw was indicted.

Q. Judge Bagert, you said you excused some persons whom you knew. Would you elaborate on that?

A. Yes. Mr. Ed Schlesinger had just bought a new electrical business and I know him very well. He said his name came up on the venire often, and I excused him.

Q. Can you name any others?

A. A man named Lemans spelled Lemans or Lemanns. He travels quite often in and out of the state and is a commission merchant.

Q. Off hand, can you think of any others?

A. No. I can't.

Q. Will you tell us how the 75 names are drawn?

A. It would be hearsay. I've never seen it done.

Here, Judge Haggerty suggested that Dymond refer his question to one of the jury commissioners when he is called to the stand later.

Q. Are these interviews privately conducted?

A. They are conducted in my chamber. Doors are open. I'm often interrupted. It was no star chamber session.

Q. Were there any women on the venire?

A. To my knowledge, no.

Q. Was a woman's name ever mentioned at any time that you know of?

Alcock objected, saying that it was immaterial because a woman was not involved in the case.

Dymond said that a woman's viewpoint might have been advantageous and Judge Haggerty agreed with him, overruling Alcock's objection.

Judge Bagert said he does not recall a woman's name ever appearing on a venire of his. A woman was on a grand jury years ago, he said.

Q. Mrs. Ann Fleming in 1954?

A. Yes.

Q. There has never been a woman selected by you?

A. No.

Q. How long have you practiced criminal law?

A. I was admitted to the bar on July 14 or 15, 1935, and have practiced general law until I went on the bench in 1956.

Q. Have you ever known another woman to be on a grand jury?

A. No.

Q. Have you ever known a Negro to be on a grand jury prior to the recent Supreme Court decision?

A. Negroes have been on every grand jury I've empaneled. He cited a decision made by a criminal district judge here in 1954.

Q. At least one Negro on every grand jury?

A. Correct.

Q. Have you made a point of it?

A. Yes, but not a token selection. I tried to find ones who could do a good job.

Q. How many Negroes were on your last venire?

A. Two (the last grand jury had two Negroes as members).

Q. Was your selection in keeping with your record of having at least one Negro on each grand jury?

A. I selected two of the finest citizens of this community. One is a ward leader and the other, the publisher of a fine weekly paper which serves the Negro community.

Q. Judge, you are aware our state law permits women to volunteer for jury service. In fact I believe you are spearheading a drive to get women to serve.

A. Mrs. Patsy Sims (Hountha) of The States-Item is spearheading it and using me as a workhorse.

Dymond asked Judge Bagert if he ever had women serve on petit juries in his section of court.

Judge Bagert said, "I can't remember all of their names. However, I do remember Mrs. Drake from the Vital Statistics Bureau serving. I also recall Mrs. Milton Adler. I recall specifically that Mrs. Adler was selected as foreman on one of my juries."

Dymond asked, "Have you ever had a woman submitted among the 75 names for grand jury service?"

Judge Bagert said, "To the best of my recollection there were none on the grand jury venire list."

"IN MAKING certain that the last grand jury you impaneled had Negroes on it, was the ratio of Negroes to whites consistent?" Dymond asked. Judge Bagert said no.

Judge Bagert explained that he tried to get as many qualified Negroes as he could without using duress or "what have you."

Judge Bagert was followed to the witness stand by Judge Frank J. Shea. Dymond opened his questioning, asking, "How long have you been a judge?" Shea said, "It will be four years Sept. 16."

"Prior to that time, what was your experience as an attorney in the practice of criminal law?" Dymond asked.

Judge Shea said, "I began practicing in 1955; I served in the Legal Aid Bureau through 1956; I became an assistant district attorney under District Attorney (Leon D.) Hubert and served as an assistant from 1957 to 1958; then I went back into the practice of criminal law until District Attorney Garrison took office in 1962, when I joined his staff."

SHEA SAID he was elected a judge in 1963.

Dymond asked, "How many grand juries have you selected as a judge?"

Shea replied, "Only one." Dymond asked, "When was that?"

"September, 1966, through March, 1967."

DYMOND ASKED, "Judge Shea, how often does a judge select a grand jury?" Shea replied, "Every four years."

"Would you outline for the record the procedure you used in selecting your grand jury?" Dymond said.

Judge Shea said, "I ordered 100 names, rather than

75. This was about the time of the Labat and Poret decision in the Fifth Circuit Court of Appeal. Around August the 16th to the 20th, I was given a list by the jury commission of 100 names."

DYMOND SAID, "May I interrupt to ask, would you still have that order?"

Judge Shea said, "I issued a separate order to the jury commission apart from the general order of the eight judges following the en banc session. (The judges sent an en banc order following the Labat-Poret decision ordering the commission not to excuse anyone from jury duty.)

Dymond, holding up a copy of the order, said to Judge Shea, "I show you a copy of an order signed by the judges of Criminal District Court and issued to the jury commission and ask you if it is the same as the one you ordered for your grand jury."

Alcock interrupted and said the state would offer the document at a later time and Dymond temporarily withdrew his question. Dymond asked Judge Shea if the jury commission had submitted to him the list of 100 names and Shea said yes. "I instructed them to list the names as they came out of the wheel; not in an alphabetical order; and I chose by grand jury from the first 12 persons whom I found to be legally qualified to serve as grand jurors," Judge Shea said.

Dymond asked if there were any women's names in the list. The judge said he could not remember.

"WERE THERE any Negro names?" Dymond asked. "Yes, there were several," Judge Shea said.

"Did you choose any Negroes to serve on your grand jury?" Dymond asked. Judge Shea said that he selected five Negroes. "I don't believe in putting Negroes on the grand jury merely for the sake of having Negroes on the jury; they happened to be among the first 12 qualified persons," Shea said.

Dymond asked if Judge Shea had ever known of any women to serve as grand jurors. The judge said no, but "I don't keep up with the other grand juries."

Dymond asked if he knew of any women who had served on petit juries. "Yes, there were several," Judge Shea said. "I had one last month to serve on a petit jury in a murder case."

IN OTHER WORDS, Dymond said, since women have been serving on petit juries, "I assure there are women's names on the jury wheel for grand juries?" Judge Shea said, "That's right."

SHEA WAS FOLLOWED

by Judge Malcolm V. O'Hara, who was questioned on similar lines.

O'Hara told the court he had been on the bench about five years.

Dymond asked Judge O'Hara if he had impaneled the current grand jury and the judge replied, "Yes, they were sworn in Sept. 6."

Judge O'Hara, in answer to a question, said that this is the first jury to be sworn in since the one which returned the indictment of Shaw.

"Would you now outline the procedure you used in impaneling your grand jury?" Dymond asked. Judge O'Hara said, "I don't remember all of the details of four years ago. I don't recall whether I requested 75, 100 or 125 names. However, after receiving this list of prospective jurors from the commission it took me about eight to 10 days of interviewing prospective grand jurors."

He said, "I don't recall if I interviewed everybody on that list or not. I know I selected 12 whom I thought to be best qualified."

Judge O'Hara said the 12 included Negroes, but didn't recall any women.

"With the possible exception of Mrs. Dan Flemming, who was selected by your father, do you recall any other woman having served on a grand jury in Orleans Parish," Dymond asked. O'Hara said, "No."

Dymond asked, "When was the first Negro selected to serve on a grand jury?" Judge O'Hara said that it was about 1950 or 1951.

Dymond asked Judge O'Hara:

Q. Did you make a point of putting at least one Negro on the grand jury?

A. No.

Q. You did not?

Dymond then asked O'Hara to explain how he selected the grand jury.

Judge O'Hara said he ordered 125 names to be submitted by the jury commission and that the names were given to him within the statutory period in an unalphabetical listing.

"Upon receipt, instead of having the jury commission

send the notices out, I sent registered certified letters. I gave the prospective jurors specific instructions to call my office," he said.

"I DID THIS in order to set up appointments with these people. As they called I set up appointments—maybe 10 or 12 in the morning and 8 or 10 in the afternoon. After interviewing approximately—I don't know whether it was 48 or 49—I selected 12 people," said Judge O'Hara.

He said he ruled out those who had good reason not to serve. He said he considered such things as vacations and health, and other hardships in his selection of the jurors.

He said that by the time he had talked to the 48 or 49 prospective jurors, he had selected the 12th member of the grand jury and saw no reason to talk to the balance of the list provided by the jury commission.

DYMOND asked Judge O'Hara:

Q. Did you discard any for other than legal exemptions or hardship cases?

A. No, sir, I did not.

Q. How many Negroes were selected?

A. Three.

Q. Did you take any Negroes because you thought there should be Negroes on the grand jury?

A. No, sir.

Q. Were there any women on the list of grand jurors?

A. There were three. One of them I selected.

The next judge called was Thomas M. Brahney. He was also asked by Dymond to outline the procedure he had followed in selecting a grand jury.

Brahney told Dymond that he requests 75 names on the list of prospective jurors and tries to interview two or three an hour. He explained that some people have problems such as business commitments that would disqualify them.

He testified that he had selected two grand juries.

Q. Were there any Negroes on the first grand jury?

A. Yes, three or four.

Q. Were there any women in the 75 names?

A. In neither case was there a woman on the prospective jury list.

Q. How did you determine to put the three Negroes on the jury?

A. I thought they were qualified. Let me say this: I tried to get as representative a segment of the community as possible.

Judge Brahney said he tries to get people from various occupations and "from various sections of the city so I wouldn't have just one section of the city represented."

Q. How many were left after those excused for legal reasons?

A. I'd say 50 or 60.

Q. Did you make an attempt to keep the ratio of Negroes to white jury members consistent with the ratio of Negroes to whites in the community?

A. No, sir.

Q. You took all of the Negroes you thought should not be excused?

A. As I recall . . .

Judge Brahney was then asked about the 1965 grand jury he selected and the procedure he used.

He said the procedure was the same, and that the grand jury included three Negroes.

Q. Judge, you were closely associated with criminal law prior to becoming a judge?

Judge Brahney said that he had not been closely associated with criminal law but had had some experience.

Q. Were any Negroes on the grand jury prior to your being a judge?

A. I don't recall.

Judge Brahney was excused and Judge Braniff took the stand.

Q. How long have you been a judge?

A. Since March, 1966.

Q. Have you selected any grand jury?

A. No.

Q. Were you closely associated with criminal law prior to becoming a judge?

A. Yes.

Q. When is the first time you knew of any Negroes being on the grand jury?

A. I don't recall the year but it seems like it was in the last 10 or 12 years.

Q. Would it refresh your memory if I reminded you of Judge William O'Hara's decision on Negroes and women in 1954?

A. This is right. Gee, I think I remember something like that.

Q. Do you know of any woman except Mrs. Ann Fleming who appeared on a jury?

A. I can't say. Off hand, no.

Q. Do you get women on your jury venire?

A. Yes. Some were called to serve, but asked to be excused. One received her notice in June when her children were out of school. She said she'd be glad to serve at another time.

Another had heart trouble, and couldn't climb the stairs to the attic where my courtroom is.

Q. You usually get a sprinkling of women on a grand jury list?

A. One or two.

Q. Is the list for grand jurors the same as the list for petit jurors?

A. Yes.

Judge Braniff was excused, and Judge Rudolph E. Becker Jr., took the stand.

Q. How long have you been a judge?

A. Since Jan. 1, 1965.

Q. You were closely associated with the practice of criminal law prior to becoming a judge?

A. For 38 years.

Q. You know the workings of a grand jury?

A. Yes.

Q. Have you ever empaneled a grand jury?

A. Yes.

Q. How do you go about selecting a grand jury?

A. I interview the entire 75 persons on the venire and select 12.

Q. Do you make any effort to keep the ratio of Negroes to whites on the grand jury equal to the ratio in the general population?

A. I never select it on the grounds of racial color. I put people I thought would be the best on the grand jury.

Q. There were no ladies on the list of 75 persons allotted to you?

A. I don't recall.

Q. Do you consistently have a few women on the venire?

A. No. But I have had ladies lately.

Q. Other than Mrs. Ann Fleming, have you ever known a lady to serve on a grand jury?

A. I really couldn't answer because I'm not familiar with all the grand juries. I don't recall one, but I can't say for certain.

Q. Are grand juries drawn from the same wheel as the petit jury?

A. I believe so.

Judge Oliver P. Schulingkamp took the stand after Judge Hecker was excused.

Q. How long have you been a judge?

A. Since 1960.

Q. You were closely associated with the practice of

criminal law prior to that time, isn't that correct?

A. That's true.

Q. For how long?

A. Fourteen years.

Q. How many grand juries have you selected since you've been a judge.

A. Two or three.

Q. Would you outline the procedure of selection?

A. I get a list of 75 names out of which I select 12 persons on the grounds of competency and willingness to serve. Intelligence and a sense of civic responsibility are prime requirements.

Q. Do you go through the entire list of 75 persons?

A. I go through the entire list.

Q. Have you ever had a woman on the grand jury?

A. No.

Q. Has a woman ever appeared on your list?

A. No.

Q. Do you attempt to keep the ratio of Negroes to whites on the grand jury equal to the population ratio?

A. No, if a Negro meets the requirements, then he may be a grand juror.

Q. Prior to 1954, did Negroes serve on grand juries?

A. I don't know.

Q. Were you aware that prior to a given date that no Negroes served as grand jurors?

A. Yes.

Q. Isn't there usually a sprinkling of women on the list of petite jurors?

A. A very fine sprinkling. There was one on my last list and none on the one prior to that.

Q. Do you know of any woman besides Mrs. Ann Fleming who has served as a grand juror?

A. Not that I know of.

Q. You're aware that our law prescribes that a venire of 75 prospective grand jurors come from the same list as prospective petite jurors?

A. Yes.

Q. Is it true that women cannot be called unless they volunteer.

A. Yes.

Judge Schulingkamp was excused and the hearing was recessed for lunch.

In answer to questions from Dymond, Rada testified that he has been chairman of the jury commission since 1965 and a member of the commission since June, 1964.

It is the job of the jury commission to provide judges with venires for petit and grand juries.

Q. Are you thoroughly familiar with the manner in

which lists of prospective grand jurors and jury venires are selected.

A. By my office or the courts.

Q. Is there any special number of names on that list (supplied to the judge)?

A. It varies with what the particular judge might request.

Q. How many did Judge Bagert request?

A. I don't remember if Judge Bagert requested 75 or 100.

Q. Where does the jury commission get its names.

A. We take the names from the city directory, the voter registration lists, and occasionally, there are a few volunteers.

Rada was then asked if all jury duty names are selected from the wheel.

A. All jurors are pulled out of the wheel.

Q. Ordinarily, how many names do you have in the wheel?

A. I couldn't say.

Q. Well, when you take 75 out, is it half empty?

A. No, sir.

At this point, Judge Haggerty broke in to explain the state law on the number of prospective jurors required. He said that "at least 750 names with the proper qualifications" are required in the jury selection wheel at all times.

HE pointed out that if each judge requested 150 names, Rada would have to have 1,250 just for this purpose.

He said the jury commission could have to have at least 1,300 names in the wheel. Rada then said that the jury commission has "in excess"

of that.

Rada was then asked by Dymond, "Which do you select first—the grand jury or petite jury venire?"

A. I think we select the grand jury first.

Q. Is there any replenishment of the names?

A. No, sir.

Q. So if you selected 800 petite jurors, you would then select the grand jury from what was left in the wheel?

A. Yes, sir.

Dymond pressed Rada as to whether he knew if there were 750 names in the wheel at the time the grand jury is drawn.

Rada said the wheel would have 1,500 to 2,200 names, many more than the 750 required at all times.

Q. Who counts the number of names that go in the wheel?

A. We don't count them. We count them as we pull them.

Q. Who counts them?

A. Every member of the commission.

Q. How many names were in the wheel when the last grand jury was called?

A. Fifteen hundred to 2,400 names.

Q. Does anybody count how many names go into the wheel?

A. I don't.

Q. Have you ever seen anybody else count?

A. No.

Q. You've never seen anybody keep a record on the number that went in?

A. No, sir, I don't know whether somebody keeps count in their mind.

In answer to another series of questions, Rada said he did not know anybody in the list that went to the judges. "I do not read the list of jurors going to any judge."

In answer to a question as to why no woman jurors have been included in the grand jury lists sent to the judges in the 13 years prior to the last grand jury, Rada said it was a matter of chance.

Q. Has there been any exclusion of Negroes?

A. No, sir.

Q. Do you have anything that would indicate whether a person whose name you had is white or colored?

A. On the jury commission card there is . . .

At this point, Judge Haggerty asked the sheriff's office to provide the court with a card that is sent to prospective jurors.

When one was brought to the bench, he said. "It does have the race on it. I was under the impression they took the race off of it. Apparently I was misinformed."

In answer to questions, Rada explained how a notice for a personal appearance is sent out to prospective jurors by the clerk of court.

He testified that the back of the card which includes the information concerning race is filled out by the prospective juror.

When Dymond began questioning Rada about other forms used by the office, Judge Haggerty asked that the sheriff's department provide copies of everything used by the commission and then take a picture of the wheel used to select jury venires.

Q. Referring to the jury wheel, you have stated no one counts the names as they go in?

A. Yes, sir.

Q. Does anyone count the number left in the wheel after the selection is finished?

A. No, sir.

Q. Are you familiar with Article 409 . . . that at least 750 names must be in the wheel at all times?

A. Yes, sir.

At this point, Judge Haggerty interrupted again, saying that he believed Rada might be confused by the questioning.

Rada said that "at all times, we have had 1,500 names in the jury wheel."

Judge Haggerty then asked, "What do you do to replenish it?"

"We know how many names you people require, and we know that the wheel must be filled," said Rada.

Dymond then asked, "How many names are in that wheel right now?"

A. Mr. Dymond, I couldn't answer. . . .

Q. Is there anybody on the commission that could answer?

A. No, sir.

Q. You've testified that there are at least 1,500 names in the wheel?

A. Yes, sir.

Q. How many names are there now?

A. I don't count them, Judge.

Q. Have you ever counted them?

A. No, sir.

Q. How do you know there are 1,500 names?

Rada said he was told when he came on the commission that there were at least 750 names in the wheel.

Q. You were told in 1964 that there were 1,500 names?

A. I was told that there were always more names in the wheel than were drawn out.

Q. And that's your sole source of information?

Dymond: "Was this system in effect when Judge Bagert empaneled his grand jury in March, 1967?"

Rada: "Yes, sir."

Dymond then presented a blank "notice of appearance" which he marked Defense Exhibit No. 3 and, showing it to the witness, asked:

"Does the prospective juror fill this slip out on the back?"

Rada: "Yes, he is supposed to."

DYMOND: "Now, does the prospective juror bring this notice of appearance in with him to the commission office?"

Rada: "Yes, sir."

Dymond then presented a blank form card which he marked Defense Exhibit No. 4 and, showing this to the witness, asked, "Who places this information on this card?"

Rada responded: "The clerk in the commission office fills this information on the card. This includes the juror's name, address and place of employment."

Dymond: "Why is the person's race included on the form marked D-3 and not on the card marked D-4?"

Rada: "I don't know. All I know is the form is the same as when I came in office."

Rada was then shown a large lined sheet of paper which Dymond marked Defense-5 and asked what it purposed to be and Rada explained that it is known as a "court sheet." Rada then explained that the names of the jurors are typed on this sheet and sent to the judge of the court requesting the jurors.

Dymond then presented a small slip of paper which he said he was marking D-6 and asked what this slip was. Rada explained that these smaller slips of paper contained the names of the jurors as they are placed into the jury wheel. The names are taken from the D-3 notice of appearance forms and placed on the smaller slips marked D-6 and placed into the jury wheel.

Dymond: "Is the juror's race included on the D-6 slip?"

Rada: "No, sir."

Q. When the clerk in the commission's office writes the juror's name on the D-6 slip which he takes from the D-3 form does not this form show the juror's race?

A. Yes, sir.

Q. Who makes the decision as to which names go into the wheel?

A. No decision is made.

Q. What do you mean, "no decision is made?" Isn't the name placed into the wheel?

Judge Haggerty interrupted at this point to aid the witness and said, addressing Rada, "What I believe Mr. Dymond is trying to find out is where no the names come from that go into the wheel—from the city register or where?"

A. Yes, they come from the city voters registration rolls and from the city directory.

Q. What is the function of the card marked D-4?

A. To keep records of when the person has served on the jury.

Q. When you get back the D-3 forms are they reviewed by the clerks?

A. No, sir. By the commissioners.