

(Mount Clipping in Space Below)



—AP WIREPHOTO.  
REGIS KENNEDY  
Leaves Grand Jury room.

## FBI MAN SILENT IN JURY SESSION

### Refuses Reply to Queries on His Role in Probe

Federal Bureau of Investigation agent Regis Kennedy refused to answer questions put to him by the Orleans Parish Grand Jury Wednesday about his role in the investigation of President John F. Kennedy's assassination.

District Attorney Jim Garrison said Kennedy, who had been ordered to appear before the jury, invoked executive privilege in the one hour he met with the body.

Kennedy entered the jury room at 4:48 p. m. and left at 5:52 p. m. He made no comment to the swarm of newsmen which followed him to the doors of the Criminal District Court Building.

Following Kennedy's appearance, Alvin Oser, an assistant district attorney, said the subpoena on Kennedy has been dismissed.

Assistant U.S. attorney John Ciolino said he was not able to predict who would make the next legal move regarding Kennedy, as the extent of his Grand Jury testimony was not known.

### EXECUTIVE PRIVILEGE

Another assistant U.S. attorney, Fritz Veters, said, while Kennedy was testifying, that the FBI man was never instructed to plead the Fifth Amendment.

Veters said Kennedy was instructed by U.S. attorney general Ramsey Clark to take executive privilege "if and when he is asked questions regarding anything that relates to his official status as an agent for the FBI. . . ."

Kennedy was ordered to appear before the Grand Jury by Judge Bernard J. Bagert, who denied a Justice Department motion to quash Kennedy's subpoena.

Judge Bagert's decision supported the view that the judiciary, and not the Justice Department, will decide when that department's privilege of not having to testify will be invoked.

Before reading his opinion, Judge Bagert sent a report from the Central Intelligence Agency to the foreman of the Grand Jury.

He handed an envelope to a deputy criminal sheriff for delivery. Wednesday was the return date for a Grand Jury subpoena duces tecum ordering Richard Helms, CIA director, to produce an alleged photograph which Garrison says showed Lee Harvey Oswald and a Latin type near the Cuban embassy in Mexico City.

### GIVES VIEWS

Judge Bagert said the return should have been made to the Grand Jury and not to him, and added that he could not reveal the contents of the letter.

Garrison, exiting from the jury room shortly after Kennedy did, would not say what the CIA letter said, and said it would be taken up later.

"We're going to talk about it with the Grand Jury next week. . . . I'll comment about it then," Garrison said.

In denying the Justice Department motion, Judge Bagert said the main question is "whether the executive branch of our government has the general and unlimited authority to instruct its many employes and subordinates not to give testimony in cases pending in court."

U.S. attorneys had cited a Justice Department order prohibiting agents and employes from testifying without prior consent of the attorney general.

Such authority "presents the anomalous situation of a party to a judicial controversy being, in addition to the party litigant, the judge and the jury," Judge Bagert said. This contravenes the fundamental system of checks and balances in government, he continued.

### JUDGE CITES CASE

The principle of privilege from giving testimony was recognized by the U.S. Supreme Court as early as 1953 in U.S. vs. Reynolds, he said.

However, in recognizing the privilege, the judge continued, the court also said, "Judicial control over the evidence in a case cannot be abdicated to the caprice of executive officers."

The "controlling" case, Judge Bagert said, is *Giancana vs. Johnson* (1964) in which an FBI agent was found guilty of criminal contempt after he was subpoenaed as a witness to testify and refused to do so on the basis of an executive order of the U.S. attorney general. The conviction was sustained on appeal.

The appellate court said the question of privilege is one to be determined by the court and not by the executive department, Judge Bagert said.

### ASST. DA SCORED

Before reading his decision, the judge also scored an assistant district attorney, James L. Alcock, for alleged speculation on Wednesday's ruling in a news interview.

(Indicate page, name of newspaper, city and state.)

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Date: TIMES 5/18/67

Edition:

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Being Investigated

"Mr. Alcock, I do not condone press interviews speculating on this court's rulings," Judge Bagert said, and added that such comments are "reprehensible."

Alcock replied that he did not remember directly commenting on the decision concerning Regis Kennedy.

Judge Bagert told Alcock his memory might be refreshed if tapes of the interview were produced.

"I'd appreciate that," Alcock retorted.

"I'll oblige you," Judge Bagert said tersely.

"I thought I was guarded in my remarks," Alcock said.

"It was my observation that you weren't guarded enough," Judge Bagert answered.