

GOVERNOR, MAR TESTIMONY IN CELLO GIVE 10-5-67 J.F. CRIME PROBE

Gov. John J. McKeithen appeared today before the Orleans Parish Grand Jury as the jury pressed its probe of organized crime.

The governor entered the jury room about 2:15 p. m. He was accompanied into the court building by state police Col. Thomas Burbank and Orleans Parish Criminal Sheriff Louis Heyd Jr.

McKeithen said he did not resent being subpoenaed by the grand jury, and said he would tell them "all I know."

Asked if he was still a friend of District Attorney Jim Garrison, McKeithen said "I hope so. I'm running for re-election."

THE GOVERNOR'S appearance followed testimony this morning by Jefferson Parish rackets figure Carlos Marcello. On hand this afternoon and scheduled to follow the governor was state Democratic National Committeeman J. Marshall Brown.

Marcello testified for nearly an hour this morning.

Marcello would not comment on what he told the jury, but indicated he did testify, rather than taking the Fifth Amendment and refusing to speak on grounds of self-incrimination.

MARCELLO WAS THE FIRST of several witnesses scheduled to appear before the jury today. He was due to be followed by state Democratic Committeeman J. Marshall Brown and later in the day by Gov. John J. McKeithen.

Assistant District Attorney Charles Ray Ward said Marcello waived immunity from prosecution in the presence of his attorney.

Also subpoenaed by the jury for today was Attorney Burton Klein, but it was not known whether this subpoena had any connection with the crime probe. Klein appeared but was told the jury would not get to him today.

Two of Marcello's brothers, Sam and Peter, were due to testify later this afternoon. Their attorney said they would appear as scheduled.

Meanwhile, in Columbus, Ohio, an attorney for Gordon Novel said Novel was accepting an offer of immunity from East Baton Rouge Parish District Attorney Sargent Pitcher and would return to Louisiana once the proper assurances are received.

IN BATON ROUGE, PITCHER said he had not yet received Novel's telegram of acceptance. He added that his offer of immunity has not yet been agreed to by other district attorneys in the state.

Pitcher returned from Chicago this morning and said the organized crime investigation has "gotten more complicated."

He said the East Baton Rouge grand jury, which is conducting a separate crime probe, will resume its investigation at 10.30 a. m. tomorrow and he will present the data he collected in Chicago to it then.

Marcello answered his 10 a. m. subpoena about 15 min-

utes late today and went into the jury room about 10:30. He came out about 11:15.

He arrived with his attorney, G. Wray Gill, who said Marcello would have no comment.

As reporters and photographers rushed around him, a woman reporter from out of town slipped and knocked over a soft drink case, making a loud report echo through the marble halls.

CARLOS jumped as if startled and Gill said:

"I don't want anyone to slug him. He's been slugged before. He has scars all over him."

Gill said before the testimony Marcello would be a cooperative witness and would not take the Fifth Amendment, covering self-incrimination, in regard to questions about organized crime in New Orleans. After the session, Gill confirmed that Marcello answered all questions relative to the matter for which he was called.

On the way out of the building, Gill told newsmen it would be "against the law" for Marcello to tell them what went on inside the jury room. He said Marcello is a "legitimate businessman—more legitimate than the people who work for Life Magazine."

LIFE articles in recent weeks have tabbed Marcello as the kingpin of the Cosa Nostra in Louisiana.

Asked about the Life charges, Marcello made his only comment. "Lies, all lies," he muttered.

Marcello and Gill left via the Broad st. entrance and walked across the street to a service station, where Marcello's car was waiting, followed by a parade of newsmen.

When they reached the car, Carlos said, "I'll take the wheel," got in and drove away.

Klein told the States-Item he did not know whether his call related to the crime probe. He said he had asked sometime ago to be heard by the jury on a matter relating to one of his clients, Alvin Beauhœuf, a figure in District Attorney Jim Garrison's probe of the assassina-

tion of President John F. Kennedy.

In Baton Rouge, Pitcher said that he failed in one of the aims of his trip to Chicago. He had hoped to arrange a meeting with Novel, who claims he will make sensational disclosures about criminal activity in Louisiana.

HE SAID he took along the East Baton Rouge grand jury foreman so there would be no misunderstanding of what took place.

In another aspect of the case, Pitcher said his office will prepare extradition papers as soon as possible to

bring D'Alton Smith, under indictment for public bribery, back to Louisiana.

Smith, a former New Orleans electrical contractor, is charged with offering a bribe to Aubrey Young, a former aide to McKeithen, to arrange a meeting in Baton Rouge between him and Teamster boss Edward Partin.

The meeting was an effort to free international Teamster boss Jimmy Hoffa from federal prison.

SMITH posted \$1,500 bond as a fugitive in Denton, Tex., and has not been heard from since. Bond on the bribery charge has been set at \$25,000.

Novel has been sought by Garrison to testify in his Kennedy assassination probe, but efforts to extradite him from Ohio have been unsuccessful. He is charged in Orleans Parish with conspiracy to commit burglary.

Pitcher had offered him immunity from arrest on other charges pending against him if he would come to Baton Rouge and testify in the crime probe.

Weiner said in Columbus, Ohio, he was accepting Pitcher's offer to let Novel return to Louisiana with immunity from arrest.

He said he was sending the following telegram to Pitcher:

In reference to your telegram dated Oct. 4, 1967—Upon my advice to Novel, we

accept your offer of immunity from arrest for any and all crimes and allegations of testifying as a material witness in the alleged Kennedy assassination conspiracy, and will greatly appreciate the opportunity to testify before the East Baton Rouge Grand Jury relative to organized crime that appears to run rampant throughout the state of Louisiana.

"THROUGH proper channels, papers of immunity signed by the following district attorneys, namely Jim Garrison of Orleans Parish, the district attorney of Jefferson Parish, your office, Gov. McKeithen, the DA of Terrebonne Parish and the signature of the proper judges in the various parishes authorizing and recognizing the immunity should be forwarded to this office and Mr. Novel will appear before your grand jury with names, dates and places which would assure you of indictments of the proper individuals who participate in organized crime and corruption within the state of Louisiana.

"Further, Mr. Novel should have the further guarantee that immediately after his testimony he will be permitted to return to the state of Ohio." *ML*

Ask O'Hara Recusal by High Court

The Metropolitan Crime Commission charged today in a legal document that District Attorney Jim Garrison "has no purpose" in seeking the group's records except to "harass, scuttle and destroy."

This came in a memorandum filed with the Louisiana Supreme Court in support of of the MCC's appeal of Garrison's effort to force them to take their records before the Orleans Parish Grand Jury.

The commission also filed arguments in support of its plea that Garrison be recused from advising the grand jury in the matter and that Judge Malcolm B. O'Hara be recused from hearing any proceedings which might develop.

THE APPEAL OF the Metropolitan Crime Commission follows a ruling Sept. 28 by Criminal District Court Judge O'Hara in support of a grand

jury subpoena issued against the MCC and four of its members to provide the names of members and records of the commission.

The grand jury action came after charges by the MCC

that organized crime exists in New Orleans and a call for an investigation. The commission has also asked for an investigation into charges by a national magazine that Judge O'Hara had consorted with a known, convicted labor racketeer.

Commission attorneys ask in their memorandum to the Supreme Court in support of a motion to quash "if it is not obvious that the district attorney has no genuine purpose and intent when he seeks all the documents of the commission and of the members, cited without distinction."

"DOES NOT this indicate a motive to harass, scuttle and destroy by obtaining all the records and documents, not any specific record, pertaining to the alleged investigation of organized crime," asked the attorneys.

"How," the document asks, "can the district attorney disbelieve that organized crime exists in New Orleans and, on the other, seek the names of informers that would establish the existence of organized crime."

The appeal maintains that if the MCC "has the right to exist at all, then it has the right to maintain itself as a

functioning body and to do so must have the support of the public, both financial and otherwise.

"IN ORDER to have the support, it must be able to promise the public that membership names, contributors' names, and the names of friends of the commission must be protected."

The commission contends, in support of the motion for recusal of the district attorney as advisor to the grand jury, that "Garrison has repeatedly gone on record, unequivocally, to the effect that 'there is no organized crime in Orleans Parish.'

"To this, the district attorney has added that the main obstacle to law enforcement in this community is the Metropolitan Crime Commission.

"It is one thing for the district attorney to be genuinely motivated in conducting an investigation and a thing quite apart for him to be so convinced that there is no organized crime that he calls upon the members of the Crime Commission to aid in their self-destruction.

"THERE MUST be a limit to the powers of the district attorney under these circumstances.

"Would it not be a barbaric system of law which does not protect a witness in a grand jury session in which the witness' avowed antagonist is clothed in the robes of adviser?"

In its arguments for the recusal of Judge O'Hara the commission offers these supports:

"It is the relators' position that Judge O'Hara, as a matter of public record, is so biased, prejudiced and personally interested in the case that, in all due respects to him, he could not possibly conduct a fair and impartial trial of those issues which pertain to the Metropolitan Crime Commission and to Aaron Kohn.

"HOW," THE application asks, "could any judge place himself in the position of a fair and impartial referee in issues of serious implication and widespread effect on the public when one of the parties, Kohn by the judge's own admission, is the latter's mortal enemy and moving force for his removal from public office."

The arguments point out that Judge O'Hara on Sept. 6, 1967, was quoted in a news article as saying that "Aaron Kohn is nothing more than a professional muckraker, charlatan and a genius at spewing forth a great volume of half-truths and innuendos."

THE ARGUMENTS contend that Judge O'Hara further stated that "Kohn's lies on me began in 1954, so I know him for what he is." The judge asked then that Kohn resign then as managing director of the MCC.

The MCC arguments contend that in support of their request for recusal of O'Hara "it would be a fatal blow to the impartial administration of justice, for prejudiced and personally interested judges to be immune from recusal in the trial of motions to quash, motion to recuse, bills of particular, prayers foroyer or other criminal proceedings."