St. Item 3/8/67

DA's Mystery Witness

SHAW LOSES

May Be Named

QUASH ATTEMPT

Judge Vows Full Hearing

—States-Item photo.

CLAY L. SHAW is guided through crowd in Criminal District Court corridor as he arrives for court session today. At Shaw's right is one of his attorneys, EDWARD WEGMANN.

Attorneys for Clay L. Shaw, arrested in an alleged conspiracy in the death of President John F. Kennedy, today lost a bid to have the case thrown out of court.

Criminal District Judge Bernard J. Bagert overruled a motion by Shaw's attorneys that a March 14 preliminary hearing on the conspiracy charge against Shaw be set aside.

HOWEVER, THE JUDGE INDICATED that a confidential informant said to be the source of the information against Shaw will have to be named at the hearing.

He also said the office of District Attorney Jim Garrison will not be able to avoid the March 14 hearing simply by filing a bill of information.

"Once I begin this hearing, it's going to go all the way," the judge said.

The judge deferred until Tuesday a ruling on a request by Shaw's attorneys that the confidential informant be named, but said:

"It is my opinion at this time that the identity of the confidential informer will have to be disclosed at the hearing."

Shaw was arrested March 1 and booked with violating the state law against criminal conspiracy. Affidavits filed by the office of District Attorney Jim Garrison alleged that he figured in a New Orleans-based plot to kill the President, who was slain in Dallas on Nov. 22, 1963.

THE MARCH 14 HEARING was set by Judge Bagert at the request of the DA's office. At the time, defense counsel

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Guy P. Johnson said he had no objection to the hearing. Today, however, the defense sought to have it set aside and to have a bill of particulars filed on the charge against Shaw.

The other two defense attorneys, William and Edward F. Wegmann, contended that the accusation against Shaw is too broad and deprives the defendant of his constitutional right to be informed of the nature and charge against him.

William Wegmann also argued that the charge is defective in that it does not state that any overt action was taken to further the object of the alleged conspiracy.

In his plea for a bill of particulars, Wegmann said it should answer the following specific questions:

"What crime did Shaw allegedly commit?"

"If the crime was a conspiracy, what are the names of the other conspirators?"

"On what date, what time of day and in what parish did the alleged conspiracy take place?"

"What action was taken in furtherance of the conspiracy and when did that occur?"

"What is the name and address of the confidential informant cited in the application for a search warrant?"

He said the defense could not conduct its case without more specific allegations from the DA.

Asst. Dist. Atty. James Alcock said there is no basis in law for filing a bill of particulars when there is no actual charge against the defendant. Legally, Shaw is not yet charged, but only booked.

JOHNSON, IN his motion to quash the hearing, contended the DA's office has failed to file an affidavit, information or indictment against the defendant and therefore there exists nothing in the form of a legal proceeding to be heard by the court on March 14.

Judge Bagert said defense counsel was present when the state filed the motion for the preliminary hearing and asked if the defense had not acquiesced in the hearing.

"No, we did not," the three replied in unison.

Johnson said the defense took no position on the hearing, and wants the bill of particulars before any hear-

ing is held.

JUDGE BAGERT, in overruling the requests of the defense, said there can be no adjudication of guilt or innocence here.

William Wegmann said:

"I disagree violently with this finding. We are entitled to cross-examine. We are entitled to be prepared and not come in here and shoot off the cuff . . . We don't want to come in here Tuesday and have the state go wild and put on a big show."

Asst. DA Alvin Oser said the defense has no right to contend the state "is going to put on any show." He said all the state must do is show a prima facie case and probable cause.

"Cause for what?" asked William Wegmann.

"There is no such thing as a conspiracy by one man," he said.

The judge specifically overruled all the requests of the defense except their request for the identity and address of the confidential informant named in a state affidavit as having conspired with Shaw and others to kill the President.

Johnson said tha among the items seized from Shaw's home under a search warrant were $30,000 in homestead stock. He said these were not listed in the application for the search warrant or in the list of items penzed when the warrant was returned.

HE ASKED that the items be brought into court and examined so that the court could determine whether they are inthe scope of the application.

Judge Bagert said he would rule on this within 48 hours. Hetold William Wegmann he wolud be allowed to see the items, but he would rule later on whether they must be brought into court.

William Wegmann said he was present when the articles were seized and tried to make a list of them at that time, but was threatened with arrest if he tried to make such a list.

ASSISTANT District Attorney James Alcock stated after the hearing that the district attorney's office will definitely go through with the preliminary hearing Tuesday.

"There will be no attempt by this office to postpone the hearing," he said.

Johnson reserved a bill of exceptions to the judge's ruling. He said he may go to the Louisiana Supreme Court to get writs to block the hearing.

Garrison alleged in an application last week for a warrant to search Shaw's home that Shaw, Lee Harvey Oswald and David W. Ferrie met and discussed "how they would kill John F. Kennedy."

SHAW SAID he did not know Oswald, the man identified by the Warren Commission as Kennedy's assassin, or Ferrie, an airplane pilot who died here Feb. 22 while under investigation by Garrison's office.

One week ago today Shaw was led handcuffed from Garrison's office to be booked on a charge of conspiring to murder President Kennedy. He was released later on $10,000 bail.

Shaw's French Quarter home was searched later.

JOHNSON CONTENDS there was no cause for a search warrant because Garrison failed to establish the reliability of the informant.

He claims that once a man is in custody, it is illegal to search his property on a fishing expedition. Johnson says that objects of the search were not properly specified in the warrant application.

William Gurvich, special investigative aide to Garrison, said the mystery informant will be available, subject to call, during the hearing Tuesday.

A special press table will be set up for the preliminary hearing, Judge Bagert announced yesterday, with seven seats available to the States-Item, The Times-Picayune, The Associated Press, United Press International, the Columbia Broadcasting System, the National Broadcasting Co., and the American Broadcasting Co.

Judge Bagert said he will also set aside a "certain number of seats for the rest of the press" and will probably have about 50 special cards printed for representatives of the news media.

THE VATICAN Weekly L'Osservatore Della Domenica in Vatican City said today the Warren Report on the assassination does not seem convincing.

The magazine's foreign news analyst, Federico Alessandrini, wrote that, "Nobody can pretend to see clearly in this affair, which stirs not only Americans. The man in the street, confronted with so much fuss, is compelled to believe something is burning."

Alessandrini said the Garrison investigation could possibly lead to clues among Cuban refugees and if any real proof was found, it could point to a conspiracy from outside the United States. "The Warren Report and its conclusions," he said, "have not seemed convincing."

...IN A STATEMENT released yesterday, the American Civil Liberties Union of Louisiana, said that all sources of private funds being used to help Garrison in his investigation should be made public.

The ACLU said that "when a public official is financed in his official duties by private sources, the general public is entitled to an immediate and complete detailing of those sources. The alternative is to sources funding the investigapublic official may be spending his time for private interests and pet projects of private citizens, to the detriment of his official duties."

The statement said that "widespread speculation by the news news media to the effect that a major national magazine is helping finance an investigation carried on by local public officials further indicate the need for a public accounting of all sources funding the ivestigation."