an dan Mark CAYUNE, NEW ORLEANS,

Illness Delays Shaw Motion Ruling

The question of whether or not to throw out a perjury charge against Clay L. Shaw will remain unresolved until District Attorney Jim Garrison is available as a witness for the defense, a Criminal District Court judge decided Tuesday.

Garrison cannot bring Shaw to trial on the perjury charge unless Judge Malcolm V. O'Hara denies Shaw's motion to quash the charge.

First Assistant District orney James L. Alcock Attorney said he is certain that Garrison, who has had a back allment for about one year, will be able to testify soon.

Shaw is charged with having silied when he said under oath on Feb. 16, 1969, that he did not know Lee Harvey Oswald and David W. Ferrie, two of the men with whom he was accused of having conspired to murder President John F. Kennedy. "sometime and ad

Shaw made the denials when he took the witness stand in his own defense while being tried on the conspiracy trial. A 12-man jury acquitted him of the charge on March 1, 1969.

TO REMAIN OPEN Judge O'Hara said the matter will remain open until Garrison and another witness are able to testify.

He made the committ-

ment after ordering that a hearing on a motion to quash the perjury charge proceed despite the absence of Garrison and the other witness subpoenaed by the defense.

F. Irvin Dymond, one Shaw's attorneys, asked twice that the hearing be continued because Garrison and Helen Dietrich, a court reporter, were not available to testify Tuesday. Each time, the judge denied the request, but after the second request, he added the assurance

ALCOCK CALLED

James L. Alcock, Garrison's first assistant, was the only witness called to the stand by Dymond.

The hearing turned into a polite sparring match between Dymond and Alcock over what the first assistant DA tried to prove to the jury pertaining to Shaw's alleged acquaintance with Oswald and Ferrie during the conspiracy trial.

The defense contends that the jury which acquitted Shaw has already passed on his testimony, and that the matter has already been adjudicated

To subject Shaw to another trial would be a denial of his rights, defense attorneys claim.

Dymond cited a series of meetings alleged to have oc-curred by Garrison in an opening statement at Shaw's conspiracy trial.

After each, Dymond asked Alcock if it would not be necessary for Shaw to have known or at least to have seen Oswald or Ferrie for the allegations to be true.

In each instance, Shaw was placed with Oswald, Ferrie, or both. CONTRACTOR SERVICE MEETING IS CLAIMED

One allegation was that Shaw, Ferrie and Oswald met in Ferrie's apartment at 3330 Louisiana Ave Rkwy in September, 1963, to d'scuss means and methods of executing a conspiracy with regard to the as-sassination of John F. Kennedy.

Perry Raymond Russo, who testified that he witnessed such a meeting was called to the stand briefly. Dymond entered a transcript of his testimony into evidence. "According to the theory of

the conspiracy ... would your theory have been possible if the defendant had not been acquainted with or seen Oswald or Ferrie," Dymond asked Alcock.

Judge O'Hara said he was recognizing Alcock as an expert witness and ordered him to an-

swer the question.

Alcock said he really did not understand what Dymond meant by the theory of the con-

spiracy.
CONTENTION QUERIED

"Assuming that Mr. Shaw had never seen nor even been acquainted with Ferrie or Oswald, would there have been any way that your contention of how the conspiracy took place could be true? Dymond asked. Under those circumstances. there was no way it could be

true. Alcock said.

Later. Dymond asked Alcock if he tried to convince the jury that i the conspiratorial meeting took place in Ferrie's avartment with Ferrie, Oswald and Shaw present:

Alcock said that he was not

prepared to say that this was "the" (placing emphasis on the") conspiratorial meeting." He said the meeting may have been preceded by other meetings which his office was unable to show to the jury.

However, he said that his office had showed other activities which, in view of the meet-

ing, would indicate a meeting o the minds SOther meetings were cited in the Garrison statement

Shaw was allegedly present at a party in a French Quarter apartment attended by Ferrie in June, 1963. Charles Speisel, of New York, N.Y., testified about this meeting. CONVERSATION ALLEGED

Later in June, 1963, Shaw after arriving in a large, black sedan, was seen speaking to Oswald on the lakefront, it was alleged. Vernon Bundy a narcotics addict, testified about this meeting Industrial and applicable with

In late August or early September, 1963, Shaw, Oswald and Ferrie drove into Clinton, La., in a black Cadillac, the statement said. Several witnesses testified about seeing them.

Dymond made the point that the jury has the privilege to disregard a witness's entire testimony if he testified falsely. Therefore, Dymond argued,

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would it not be necessary for a the basic duty of the jury to a witness makes about a mate-winess who testified as to mail fact?"

Alcock said the jury must Oswald or Ferrie.

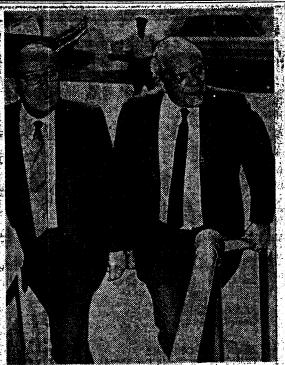
decide if the false testimony is Andrew J. Sciambra, anoth-

about a material fact. The jury er Garrison assistant, objected also has the right to ignore the talse testimony, he said.

Alcock conceded that he hearing was continued a short would not deny the materiality of Shaw's testifying that he did not know oswald or Ferrie.

BASIC DUTY

Dymond then said it was at the conspiracy trial and the



CLAY SHAW (right) arrives Tuesday with his attorney, F. Irvin Dymond, for a hearing on a motion to drop perjury charges against Shaw in the Criminal District Court section of Judge Malcolm V. O'Hara.

charge to the jury by Judge Ed-testimony in the trial? Shaw's

order a transcript of Alcock's about \$15,000.

statements in the conspiracy trial at the state's expense, but said the material is available if

Shaw wishes to pay.

Dymond said that while Shaw is not a pauper, he is not financially able to have the transcript made.

Judge O'Hara several

months ago refused to furnish Shaw with a transcript of all

ward A. Haggerty Jr. attorneys claimed that the com-Judge O'Hara declined to plete transcript would cost