

ATTORNEY GENERAL CALLED IN SHAW U.S. SUIT

Attorneys for Clay L. Shaw filed a motion in federal court today asking that U.S. Attorney General Ramsey Clark be named a defendant in their suit to block the

pending trial of Shaw by District Attorney Jim Garrison on a charge of conspiring to assassinate President Kennedy.

Shaw's attorneys told the court they had asked Clark to

join them as a plaintiff in the suit but he had refused. Now, they said in the motion, they want him joined as a defendant with Garrison and members of the DA's staff.

THE FEDERAL court has granted a temporary restraining

order blocking the trial in criminal district court and a three-judge hearing is slated later this month to determine if a preliminary injunction will be issued against the DA's office.

At the same time, the attorneys for both Shaw and Garrison's office filed a number of motions and technical pleadings involving the trial, the jurisdiction of the federal court to intervene in the prosecution of the case, the validity of state law concerning jury trials and the conduct of the DA's investigation.

IN ASKING that Attorney General Clark be made a defendant in the suit, Shaw's attorneys said the original suit aimed at blocking the trial seeks a judgment decreeing that the Warren Commission report on the assassination is valid, accurate and admissible as evidence in any court.

The motion alleges that the defendants (Garrison and his office) have been engaged in a "premeditated and well calculated scheme" to use the powers of their office to con-

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duct an "illegal, unwarranted, fraudulent and useless" probe of the President's assassination.

THE PURPOSE of the probe, the motion alleges, is to discredit the Warren Report. Therefore, the attorneys

argued, the attorney general should be made a party to the suit to protect the interests and integrity of the United States and its citizens.

The Shaw attorneys also filed an amendment to their original complaint in which they attack the constitutionality of the state law (Article 782 of the Louisiana Criminal Code) which deals with the number of jurors in criminal cases and the number of jurors who must concur in a verdict.

THE AMENDMENT charges that this law violates Shaw's rights under the First, Sixth and 14th amendments to the U.S. Constitution, which guarantees that he shall be tried by a jury of 12 persons, who must agree unanimously.

Under the state law, the amendment points out, the crime with which Shaw is charged provides for a sentence of not less than one year or more than 20 years' imprisonment at hard labor and it further stipulates that such case be tried before a jury of 12 persons, with nine concurring in the verdict.

THIS STATE LAW is unconstitutional, the amendment charged, because it is discriminatory for less serious cases where the punishment may or may not be imprisonment.

In cases involving lesser crimes, the defendants are tried before a jury of five persons and all must concur in the verdict.

THE AMENDMENT claims that to require a verdict of only nine of 12 jurors in more serious cases and a unanimous verdict in a less serious crime is discriminatory.

Shaw's attorneys also charged that the proceedings against Shaw were not brought lawfully nor in good faith and that the indictment was based solely on drug and hypnotic-induced testimony, a reference to the testimony of Perry Raymond Russo during the criminal court hearing that preceded the Shaw indictment. Russo admitted he was hypnotized by investigators for Garrison as a means of helping him remember events linking Shaw to the alleged conspiracy.

Shaw, his attorneys told the court, "is a patsy or a pawn in the fraudulent investigation" of the Kennedy assassination.

"THEIR ACTIONS are part of a plan to employ illegal search and seizure to harass the plaintiff and members of his class," the amendment said.

Meanwhile, Garrison's office asked the federal court to dismiss the suit blocking the trial. In other motions filed with the court, the DA's office asked the court to:

1. Deny the request of Shaw's attorneys to compel several of Garrison's assistants to give oral answers to questions about the investigation of the assassination of President Kennedy in 1963.

2. Deny the request of Shaw's attorneys that they be given copies of various items which form part of the DA's investigative files.

3. Dismiss Assistant DAs James Alcock and Charles Ray Ward as defendants in the suit filed by Shaw's attorneys to block permanently the trial of Shaw on grounds that his civil rights have been violated in the investigation of the Kennedy murder.

In its motion asking the court to dismiss the suit which blocks the trial of Shaw, Garrison's office said the complaint should not be considered because the prosecution of Shaw is pending in a state criminal district court.

A SECTION of the U.S. code prevents the federal court from enjoining the prosecution as long as the case is pending in criminal court, the motion argued.

With respect to the request by Shaw's attorneys for copies of various items that are part of the DA's files, the motion said neither state nor federal criminal procedural law provides for such discovery of the prosecution's case prior to the trial.

ATTACHED TO the motion is a memorandum citing a number of federal court decisions to back up the DA's argument. It added that federal courts do not grant "anticipatory relief" against pending state criminal proceedings."

The second motion seeking to dismiss Alcock and Ward as defendants in the suit argued that Garrison is the sole and exclusive authority over any and all prosecutions by the DA's office.

Also filed with the court today was an answer to a motion filed by Shaw's attorneys aimed at compelling certain of Shaw's assistants to give oral depositions before the Shaw lawyers.

THE ASSISTANTS, Alcock, Andrew Sciambra, Louis Ivon and Lynn Loisel, appeared last week at the offices of Shaw's attorneys but were under orders from Garrison to give only their names, office ranks and social security numbers — no information about the investigation.

Today's answer to the motion said that Shaw's attorneys sought information that is privileged and concerns evidence in the case.

Further, the answer said, much of the information sought by Shaw's attorneys already had been denied in rulings by Judge Edward A. Haggerty Jr. in criminal district court. Judge Haggerty has been allotted the trial of Shaw.

THE ANSWER said Shaw's attorneys are attempting to use the discovery rules of the liberal civil code to get information that they cannot get under the more restrictive rules of the criminal code.

Finally, the papers ask the court to reject the request by Shaw's attorneys that the DA be ordered to pay \$3,000 in court costs and attorneys' fees in obtaining the court order for the oral depositions.

U.S. Atty. Louis LaCour said that he had advised the attorney general about the motion seeking to make Clark a party to the suit and that he is awaiting instructions about what position the government will take.

Judge Heebe said following the conference that all of the motions will be heard Monday beginning at 10 a. m.