

CONNALLY WON'T APPEAR FOR DA VOLUNTARILY

Former Texas Gov. John B. Connally said last night he will come to New Orleans and testify in the trial of Clay L. Shaw only if a Texas court says he must.

"I don't intend to go voluntarily but if a Texas District Court allows the subpoena to be served, we'll have to go," Connally said in Houston.

District Attorney Jim Garrison yesterday subpoenaed Connally and his wife, both of Houston, as state witnesses in the trial of Shaw, 55, who is charged with conspiring to kill President John F. Kennedy.

The morning session of the trial's eighth day passed today with no new jurors accepted. Fifty-four persons were questioned and excused.

By the end of yesterday's session, 10 jurors had been sworn in. Twelve, plus two alternates, are needed.

Gov. and Mrs. Connally were riding with Kennedy in the presidential limousine

when the president was shot to death in Dallas' Dealey Plaza Nov. 22, 1963. The governor was seriously wounded by the gunfire.

The Garrison subpoena said the Connallys' testimony will help show "that shots were fired into the limousine from more than one direction, pursuant to a conspiracy formulated by Clay L. Shaw and others."

GARRISON CHARGES Shaw conspired with Lee Harvey Oswald and others here to assassinate Kennedy. The Warren Commission investigating the slaying found no evidence of a conspiracy.

Connally said he and his wife told the commission everything they knew about the tragedy. However, the governor in the past has differed with the commission's theory of which bullet struck him.

The commission concluded

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the first shot fired hit both Kennedy and Connally. The governor has insisted he heard the first shot before he was hit. Inasmuch as bullets travel faster than sound, this presents a dilemma which many Warren Commission critics have seized on.

THE CONNALLY subpoenas, along with others issued earlier, pose a key question in the Shaw trial. Will the state be permitted to "go into Dealey Plaza" and introduce testimony about the assassination itself?

Judge Edward A. Haggerty Jr. has said "we'll cross that bridge when we come to it. I can't tell the state how to present its case." The question has been raised several times by chief defense attorney F. Irvin Dymond.

Chief prosecutor James L. Alcock has said the state may or may not delve into the assassination itself. To obtain a conviction under the state law, the state must prove a conspiracy involving Shaw was formed inside its jurisdiction, then show at least

one overt act was committed in furtherance of the object of the conspiracy. The overt act need not be the assassination itself.

BUT THE SUBPENAS for Connally and others connected with the events in Dealey Plaza indicate Garrison intends to deal directly with the slaying, in effect putting the Warren Commission Report on trial along with Shaw.

In court yesterday, the ninth and 10th jurors were agreed upon and took their place in the jury box. They are:

Harold W. Bainum Jr., 24, of 2911 Banks, a credit manager.

Warren E. Humphrey, 52, of 6524 Providence pl., a postal employe.

So far, the jury includes seven whites and three Negroes. It is all male.

This morning, the defense exercised its ninth and 10th peremptory challenges in rejecting two potential jurors accepted by the state. This leaves the defense with only two more such challenges, the state with three. Each side had 12 to begin.

Peremptory challenges reject jurors with no reason given. Otherwise, the judge decides on a juror's fitness to serve.

EACH SIDE WILL get two more peremptory challenges as soon as the 12-man panel is completed, to use in the selection of the two alternates.

Rejected by the defense today were Frank B. Payette Sr., 62, and Edward Fisher Jr., 38.

The judge ordered 34 members of the jury panel of Judge Thomas M. Brahney to report for this afternoon's session.

Through yesterday, Judge Haggerty had run through 370 prospective jurors with only 10 selected. Most were rejected either because they already had a fixed opinion in the case or because they said they couldn't afford to serve two months without pay. Jurors are not paid in New Orleans.

Through the legal sparring over jurors, the big, white-haired defendant has chain-smoked and watched with an air of detachment.

The penalty on the conspiracy charge is one to 20 years in prison. It takes at least nine members of the jury to acquit or convict. Alcock says he expects the trial to run two months.