

Jail Sentence Evaded

JEFF JURY HEARS GERVAIS

By TOM FRAZER

Pershing O. Gervais today testified for an hour-and-a-half before the Jefferson Parish Grand Jury, thus avoiding a five-day jail sentence for refusing to testify earlier.

Gervais went into the jury room at 10:35 a.m. and came out at 12:05 p.m.

He is believed to have been called before the jury to give testimony on allegations of a bribe involving former Criminal District Court Judge Malcolm V. O'Hara.

After Gervais' appearance before the grand jury, he appeared in district court before Judge Floyd Newlin, who, on the request of Jefferson Dist. Atty. John Mamoulides, vacated the five-day contempt of court sentence because of his testimony today.

Judge Newlin also approved Mamoulides' request that Gervais' subpoena remain open in case the grand jury wants to call Gervais for additional testimony.

Mamoulides told the judge that Gervais assured him he would be available for further appearances before the grand jury if called.

Gervais faced the choice today of testifying before the Jefferson Grand Jury or going to jail, after hearing a federal judge rule yesterday that he had acted as a voluntary informer in the investigation of the Jim Garrison pinball bribery case, and learning that a federal appeals court refused to block his jail sentence for contempt.

Today Gervais faced questioning in the grand jury by Mamoulides and state Atty. Gen. William Guste.

On Sept. 1 Gervais refused to answer grand jury questions about a charge that rackets figure Carlos Marcello had

paid O'Hara \$5,000 to delay or thwart the extradition of a man to California.

Gervais invoked his Fifth Amendment rights and claimed that an offer of immunity by Jefferson and state officials may not exempt him from federal prosecution.

Judge Newlin sentenced Gervais to five days in jail for contempt, but later gave Gervais a second chance to appear before the jury.

Schonekas first tried to get an injunction against the jail sentence from U.S. District Judge Herbert W. Christenberry, who refused, saying Gervais' rights would be protected in the state courts. An effort yesterday to get an injunction from Judge Robert A. Ainsworth of the U.S. Fifth Circuit Court of Appeals, also failed.

In a brief hearing this morning, both Guste and Mamoulides asked Judge

Newlin to determine whether Gervais was willing to testify. It was then that Schonekas announced Gervais' cooperation.

In another development yesterday, Judge Christenberry ruled that Gervais had cooperated willingly as an informer in the government investigation of the Jim Garrison pinball bribery case.

Information developed by Gervais was used in indicting the district attorney, two former police officials and seven pinball figures. They are accused of paying Garrison bribes to protect illegal pinball operators from prosecution.

After a drawn-out and often interrupted hearing on the Gervais matter, Judge Christenberry said, "I think the evidence is overwhelming. The only evidence, as I see it, establishes clear-

ly the voluntariness of Mr. Gervais' cooperativeness."

The only witness called in yesterday's segment of the hearing was Floyd David Moore, chief of the Internal Revenue Service's intelligence division in New Orleans. Moore testified that the government took no action on \$8,700 worth of back taxes owed by Gervais in exchange for his cooperation in the case.

The judge said there is nothing illegal or improper in the government employing informers and paying them.

"Whether some of us would have spent money the way the government saw fit is another matter," he remarked. "The government did give Pershing Gervais some relief as to his taxes, but nothing is wrong with that."