

POSSIBILITY LOOMS

Ruby Juror Loss Mistrial Ground

What happens if they pick a jury for the Jack Ruby murder case and then one of the jurors becomes ill during the long trial and cannot carry on?

Should this happen, Dist. Judge Joe B. Brown would rule a mistrial and the case would start all over with a new jury, Dist. Atty. Henry Wade said Wednesday.

The district attorney explained that Texas courts, unlike federal courts and courts in many other states, have no provision for alternate jurors.

In many states one or two alternates are chosen for jury duty in lengthy cases.

In these states, the alternates hear the testimony and are locked up with the regular jurors but do not participate in the verdict unless a regular juror becomes ill, dies or is unable to serve for any other reason.

Mr. Wade said he cannot recall a juror becoming ill and unable to serve since he became district attorney here.

"But I do remember once when we were trying a death penalty case and a juror got sick in the jury box and fainted. He was

treated by a doctor and was able to continue," the district attorney said.

The district attorney said the State Bar Association has recommended alternate jurors and legislation was passed during the last session of the Texas Legislature for alternate jurors.

But during the last-minute confusion of the session the legislation was vetoed.

The district attorney said there is also the problem of what would happen if the judge or one or more of the attorneys should become ill during the case.

"You can substitute a judge but it would have to be by agreement between the opposing attorneys," he said.

He also said attorneys can be substituted if the problem should arise.

Asst. Dist. Atty. A. D. Jim Bowie pointed out that adding alternate jurors would create practical "problems" because facilities for jurors in Texas provide for only 112 persons. He said jury quarters have facilities for only 12 jurors and bailiffs and jury boxes have only 12 seats.