

LA-LAW 'DIFFIGULTY' EX-DAA'S TESTIFY

By LANNY THOMAS
and ED LEPOMA

Dist. Atty. Jim Garrison, who contends Louisiana law made it difficult if not impossible to prosecute pinball machine owners, today called four former district attorneys to back up that contention in his federal pinball bribery trial.

Testifying at the trial of Garrison and two pinball figures entered its fifth week were former Das Leon D. Hubert Jr., Richard Dowling, Judge James P. O'Connor and Herve Racvich.

All testified they did not prosecute owners of pinball machine companies when they were in office.

Garrison is on trial along with John Arvins Callery and Robert Nims on a charge of conspiring to obstruct law enforcement by giving and taking bribes to protect pinball gambling. Garrison contends it was difficult to prosecute machine owners since the pinball machines themselves were not illegal — only the payoffs to players who won on them.

He also contends that until 1972 the state had no general immunity law which would have enabled him to pres-

sure bar owners into testifying against the machine owners.

One of the former Das, Dowling, testified only after being ordered to do so. When he entered the courtroom Dowling asked U.S. Dist. Court Judge Herbert W. Christenberry to quash his subpoena.

He said he was not served the subpoena until last night and he also was given a list of questions which he believes are not relevant.

Judge Christenberry denied the motion to quash and instructed the jury it must weigh Dowling's testimony.

Dowling's appearance followed testimony by Hubert, who served as district attorney from 1954 to 1958.

Hubert, a professor of law at Tulane University, said that during his term he prosecuted those who made payoffs on pinball machines but never the owners of the machines. He said he didn't prosecute the owners because of the "difficulty in trying to tie the owners into the cases."

"It was difficult to show that the owners knew the machines were being used in that way," he said.

He said that unless a witness could be granted immunity from state, and

federal prosecution he could not be forced to testify.

At that time, Hubert said, the state had no immunity statute. "Was one of the reasons you didn't prosecute them (the owners) that you sought to help them?"

"No," replied Hubert.

After Dowling was ordered to testify, he told Garrison he doesn't recall ever having prosecuted owners of pinball machines. Dowling was Garrison's immediate predecessor, serving from 1958 until 1961.

Judge O'Connor, an Orleans Parish

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Juvenile Court judge who served as district attorney between 1944 and 1946, said his assistants tried to prosecute pinball machine owners but none was prosecuted to his knowledge. He said he could not recall the reason the machine owners were not prosecuted.

On cross-examination by U.S. Atty. Gerald J. Gallin in 6th case, Judge O'Connor was asked, "If you had evidence owners were engaged in gambling businesses you would have prosecuted them, wouldn't you?"

"Yes," Judge O'Connor said.

Rashtvich, district attorney from 1946 to 1950, testified he couldn't recall if owners were prosecuted during those years because those cases were handled by his assistants.

He testified nobody ever attempted to bribe him but said if someone had, he would have prosecuted him.

Today's testimony was along the same line as that offered last week by several of Garrison's assistants and former assistants.

The 52-year-old Garrison was hitting hard at the government's case against him when the fourth week of trial ended Friday.

He attacked the government's charges on three fronts:

—That he vigorously prosecuted bar owners for making payoffs on pinball machines, but was unable to prosecute the machine owners because Louisiana had no general immunity statute. Because there was no statute, it was impossible to get witnesses to testify about gambling, he argues.

—That taped conversations between himself and government informant Pershing O. Gervais were spliced and

manipulated to place statements out of context.

--That Gervais was a "shakedown artist" who has no credibility as a government agent. Gervais worked to frame Garrison because he couldn't get favors from the DA's office, the defense argues.

James L. Alcock, Garrison's former chief assistant, testified last week he tried to prosecute pinball machine owners but his hands were tied because there was no provision in the law to give prospective witnesses immunity from prosecution. None would testify, he said.

Louis Gerstman, a professor of speech and hearing sciences at the City College of the City University of New York, was on the witness stand Friday when court recessed.

He will return to the witness stand tomorrow and is expected to testify that the tapes could have been spliced. He was admitted as an expert witness.

Earlier, the jury heard a government witness, Lt. Ernest Nash of the Michigan State Police, testify the tapes are not spliced.

Garrison also produced testimony last week that Gervais was shaking down card players and bookmakers for money and he was angry at the DA's office because it wouldn't do him favors.

One witness claimed Gervais, who once was a close friend of Garrison and who worked as his investigator, was fired by Garrison because he took a bribe.

Garrison also produced testimony contradicting that of former police Capt. Frederick A. Soule Sr.

Soule, who pleaded guilty in the case, told the court Callery and Nims met him in the parking lot of a Gently shopping center on Oct. 4, 1970, and gave him bribes.

But Callery's wife, daughter and a friend of the daughter testified Callery was vacationing in Europe on that date.