

'EAVESDROPPER'

BARRED IN

TESTIMONY

HAGGERTY TRIAL

Testimony about conversations monitored from an eavesdropping device used by a police informer were ruled inadmissible during the first day of the trial of Criminal District Court Judge Edward A. Haggerty Jr. today.

The device was carried by Brewer F. Pence, a police informer present at a hotel "stag party" attended by Judge Haggerty.

The judge is charged with three misdemeanors: soliciting for prostitution, obscenity and resisting arrest.

HIS FELLOW judge, Matthew S. Braniff, held that the substance of conversations monitored from the device were not admissible, in that judicial permission is needed

prior to the use of such secret devices.

Pence was the first state witness called in today's hearing.

Pence testified Judge Haggerty brought three women

POSTPONEMENT DENIED

Criminal District Court Judge Matthew S. Braniff this afternoon denied a prosecution request for postponement of the trial of Criminal Court Judge Edward A. Haggerty Jr. Judge Braniff said he will conduct the trial until the U.S. Supreme Court orders him to do otherwise.

and reels of film to the party to "liven it up."

HAGGERTY AND 13 other persons were arrested in a

room at the De Ville Motel, 3800 Tulane Ave., on the night of Dec. 17 during a party allegedly organized for a live "stag show" at which obscene films were to be shown.

Haggerty contends the affair was a "bachelor party" for one of the participants who was to be married soon.

The small courtroom of Judge Braniff was packed with spectators, although only about 45 persons could be seated.

The trial got under way about 10:20 a.m., 20 minutes late. Judge Haggerty, wearing a black suit, smoked nervously prior to the beginning of proceedings, exchanging small talk with friends.

AT THE beginning of the proceedings, the state conceded there had been no search warrant or arrest warrant on the night of the raid.

The defense presented 19 witnesses, including Criminal District Court Judges Alvin V. Oser and Oliver P. Schulingkamp, who were excused by Judge Braniff until 3 p.m.

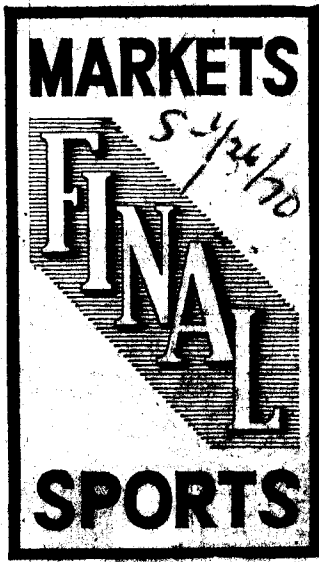
The state presented 14 witnesses, 13 policemen and Robert Grevenberg, WDSU-TV reporter and a former policeman.

The first witness was Pence, who said he lives at 1443 Arabella St. and is a retired military man receiving a 90 per cent disability pension

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JUDGE EDWARD A. HAGGERTY JR. carries an armful of papers and a book on "The Supreme Court and the Law of Criminal Investigation" as he arrives for trial on charges of soliciting for prostitution, obscenity and resisting arrest. —States-Item photo.



for service-incurred ailments. Pence testified that on Dec. 17 at about 2 p.m., he was in the lounge of the De Ville Motel on Tulane Avenue. HE SAID he was there at the instructions of Sgt. Robert N. Frey, head of the vice squad.

Pence said he gave Manuel Soto \$5 and Soto in turn handed it to Henry Smith, a bartender at the De Ville.

Pence said Smith put the money in a brown envelope and took out a sheet of paper containing a list of names, to which he added Pence's.

Pence said the \$5 payment was for attendance at what he understood would be a stag party to be held that night.

"I had heard from Soto that this would be a stag party with the real thing," said Pence.

WHEN JOHN VOLZ, assistant district attorney who is prosecuting the case, attempted to find out from Pence what was meant by the "real thing," defense attorney Robert Zibilich objected, and Judge Braniff ruled that Volz would have to establish Pence as an expert on stag parties before he could testify to what he considered to be the "real thing."

Volz abandoned that line of questioning and Pence said he was told by Soto to come back to the lounge at 6 p.m.

Pence said he returned at 5:50 p.m., where he met Soto and stayed at the bar for 10 minutes.

The police informer emphasized that at no time dur-

ing the evening did he drink any alcoholic beverages, either at the bar or at the stag party.

PENCE TESTIFIED that at 6 p.m. a man he identified as "Zarza", whom he understood to be manager of the De Ville Motel, came to the bar where Soto, Pence and a number of other prospective attendees were standing.

Pence said Zarza stated, "Let's get the party started."

The witness said Zarza took the group to Rooms 149-150 of the motel. He said a screen had been removed and the two rooms had been combined to make one large studio.

Pence said he entered a bedroom, where a king-size bed was located, with a projector resting on the headboard. At that point, he said, the projector had no film in it.

PENCE SAID bottles of bourbon, scotch and gin were on a sink with paper cups and a porter brought soft drinks for mixers. He said those present, except himself, began drinking.

At that point, Pence said, Zarza brought in three white paper bags containing film and gave them to a projectionist, who was called "Max."

Pence said the film reels brought by Zarza were all white.

Pence said shortly after, Judge Haggerty entered Room 150 with a large brown paper bag, which he gave to "Max." Pence said the reels taken from the brown paper bag were either black or grey.

PENCE SAID that two days after the raid, on Dec. 19, he was able to identify during a showing at police headquarters which were on white reels and which were on dark grey — the latter being the ones he said were brought to the party by Judge Haggerty.

He said Judge Haggerty went around the room introducing himself. Pence said he introduced himself to Haggerty only as "Brewer."

Pence said at this point Zarza went to the judge and told him a man he identified as "Pat O'Brien," chairman of the "girlie committee," had failed in his duties.

The police informer said Haggerty replied, "That's just like Pat O'Brien — he defends all the girls of the street and then can't get one to a par-

ty." PENCE SAID Haggerty then left without saying when he would return.

Pence then showed the court what he identified as a "transmitter" which was placed around his neck and body by Sgt. Frey prior to his going to the De Ville. Pence said he connected the transmitter to a battery when he entered the room where the party was held.

It was not said exactly how the transmitter was used, or whether it also had recording capacity.

Pence said Judge Haggerty returned to the party 30 or 40 minutes after leaving.

He said the judge was accompanied by three girls when he returned. Pence said Haggerty stated when he re-entered the room with the girls, "Look what I brought to live up the party."

PENCE SAID Haggerty took the girls around the

room, introducing them to each of the men.

He said that when Haggerty brought the girls to introduce them to Soto, Haggerty stated, "Girls, treat this man nice — he's our bookie."

In the courtroom were white and dark grey reels of film and photographs of three women which Pence identified as being the same he had seen the night of the raid.

Pence testified Haggerty said, "If we need more (women) I can get them, too." The witness said Max, the projectionist, wanted to start showing the pictures. He said he had enough film to show for two or three hours.

He said Max said, "Damn it, let's put out the lights and get started." The first film shown was of two females performing sexual acts with each other, he said.

THEN, HE SAID, after this film, one of the women in the motel room got up and the other two women got up and followed her from the room.

The witness then explained that he was seated closer to the judge at the stag party than he was today on the witness stand — about 20 feet from the judge.

Pence testified that he and Judge Haggerty used the same table on which to place their drinking glasses. Asked by Volz to describe the seating arrangement between them and the judge, he testified that he was sitting on a chair and the judge on a sofa close to him.

He testified the second film shown was that of two males and a female performing sexual acts.

Pence said Judge Haggerty asked if a door was opened in case the police or FBI

Women, Film to Party--Witness

came. The defendant, he said, insisted a second door be kept open.

THE WITNESS continued, "Then we saw a third movie involving a male and a female. He said then the women returned to the room.

Assistant DA Volz asked what color the reels were. The witness replied, "White." Asked if he turned around to look at each reel, he explained Sgt. Frey had instructed him to be as inconspicuous as possible.

Volz asked the witness what was done with the film. He said the white ones were replaced in the bags. He said the film was rewound immediately and placed in the bags.

The witness, describing the fourth movie, said it contained four girls and three or four men performing various sexual acts.

Pence said, "When the girls left the room the judge stood up and said, 'Who is going to be the first to go with the girls?' A person in the rear raised the question 'How much?'" He said the judge replied, "A hundred dollars apiece."

PENCE SAID he took the judge seriously but didn't know whether he was serious or not. He said a girl then came out and threw herself face down on the bed. Then, he said, a gentleman joined her on the bed.

The motel manager yelled at him to get off the bed with his shoes on, Pence said.

In the fifth film, Pence said, two females were participating in various sexual acts. Pence said Haggerty said, "Why go on with these films when we have the real thing here?" He said at this point, it was indicated that since the judge brought the girls that

he should decide how much to charge.

THE MANAGER then said he wanted \$5 more for each person, Pence said. Then the judge said, Pence claimed, he wanted \$10 from each man. He said the manager and a man he identified as Manuel argued, then collected \$10 more from each man in the room.

At this point, Pence said, one man in the room collected \$10 from the judge. He said someone tried to open the door to room 149 and the manager looked out and said he could not identify them. The judge looked out from room 150 and said one of the men was the man who sold him the film.

Asked if he was in position to see the judge when the police rushed in, Pence said the judge was on the floor when he was handcuffed by police. He said one officer read his rights to the judge and said the judge said he knew the rights better than the officer.

He said he remembered the judge was referred to as "Judge" by someone and the person was told by the judge to call him "E.H."

DURING THE testimony, Volz showed Pence a transmitter and asked him to explain what it was. Pence said it was placed around his neck to record sound during the party and a microphone was placed in his tie.

ZIBILICH, ON cross-examination, asked if Pence had done this type of police work. He said he had since last July, working on an undercover basis. He explained he had been successful in discovering several handbooks.

Pence said the vice squad gave him the \$5 to go to the

party. He said he does not drink and "despise alcohol in any form." However, he said he had an occasional beer when in an investigation.

He said he made notes on this investigation and that the officer who took him away from the party was his son. He went to his home where he could quickly write down notes on the party "as thorough as possible," he said. Asked if he discussed the case with anyone, he said only with Frey, Hughes and the district attorney.

Zibilich asked if a box of drinks was in the room when he arrived and he said there was but that mixers were brought in later. He said there was no food in the room but some hors d'oeuvres were brought in from time to time.

ASKED FOR his understanding of the \$5 he paid, Pence said, "My understanding was that I would see some movies and as one person called it, the real thing." He said he was told there would be drinks. He said all present appeared to be over 21 years of age.

He said he gave Soto the \$5 on Dec. 17. Asked if he invited himself to the party, he said, "Yes sir, I invited myself."

Under continued cross-examination, Pence said that when the raiders burst into the room, he was frisked by Sgt. George Hughes, a "Patrolman Melancon," his son, Patrolman Robert Pence, and Patrolman Mike Seghers.

Pence said the officers, including his son, handled him roughly "to make it look good."

He said he thinks Judge Haggerty was handled "worse than" he, but added that he did not attempt to re-

sist arrest.

PENCE SAID that prior to the raid he spoke to several people in the room, including Judge Haggerty and a man he identified as "Doc" Blanchard.

Pence said that in a conversation about the films, Haggerty told him that if he (the judge) was stopped by police while he had the films, he would tell them they were evidence in a case and he was taking them home to study.

Under Zibilich's questioning, Pence said those present at the stag party were told by Zarza there would be an extra \$10 charge to see the show put on by the girls.

He said Zarza and Soto went around the room picking up the \$10 from each person.

At this point, Judge Braniff said he had some questions to ask the witness.

HE ASKED Pence if the witness had gotten permission from any judge or magistrate to use the eavesdropping device he wore around his neck and body.

Pence replied that he had not.

Judge Braniff asked Pence how he was selected to do police undercover work. He replied he had no experience in undercover work prior to going to work for the police department, but added he did not believe he was selected just because his son was on the police force.

Pence said he was asked by his son to become an undercover agent but that he understood Sgt. Frey requested that his son recruit him.

PENCE ADDED he believes he was recruited because older men are more easily accepted by bookie operations than the younger men on the

vice squad.

The next prosecution witness was Sgt. George Hughes, deputy commander of the vice squad.

Questioned by Volz, he testified he placed the eavesdropping device on Pence and told him how to connect the battery.

Hughes said he and Detective Richard Huth got into an unmarked police car with a receiver and went to the vicinity of the De Ville Motel to try to pick up conversations being captured by the hidden device.

HUGHES SAID after some difficulty finding a place where the reception was good, he parked a block from the De Ville on the downtown side of Tulane Avenue, where reception was good.

However, Hughes said, he was unable to record the conversations coming through the receiver because of an equipment failure.

Hughes said he has testified in the court of Judge Haggerty on two or three occasions and believes that he could recognize the voice of Judge Haggerty above others, if he knew Haggerty's voice was to be among those to be heard.

AT THIS point, Zibilich successfully objected to allowing the transmission to be introduced in evidence.

Judge Braniff asked Hughes if a search warrant had been obtained to monitor conversations at the stag party.

"No, sir," replied Hughes.

He said no effort had been made to obtain a search warrant before a judge or a magistrate.

Zibilich held that the prosecution was seeking to show probable cause for the raid by the transmissions. He said under a Louisiana ordinance an officer must either see a mis-

demeanor take place or be in close pursuit.

The defense attorney said the information was obtained illegally.

VOLZ SAID there is legal precedent, chiefly from a jury tampering case that grew out of the trial of former union boss James Hoffa, for using an eavesdropping device to obtain evidence.

Judge Braniff held that the information could not be admitted into court because in the jury tampering case, permission was obtained from two federal judges, but that in this instance there was no judicial permission.

Braniff further noted that the Omnibus Crime Bill and Safe Streets Act of 1968 also require judicial permission to use eavesdropping devices.

THE DECISION by Braniff not to admit information gathered on eavesdropping devices was seen as a major setback for the prosecution.

Volz had planned to base his case on the probable evidence established by the eavesdropping device as a basis for the raid.

After making that decision, Judge Braniff recessed the court.

Judge Haggerty, 56, has taken leave from the bench pending the trial's outcome.

He presided at the trial of Clay L. Shaw, who was found innocent last March 1 of a charge by Dist. Atty. Jim Garrison that Shaw conspired to assassinate President John F. Kennedy.