

# HAGGERTY ACTS ON SHAW MOVE

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To Call 80 Prospective Jurors in Case

BY CLARENCE DOUCET

Denying a defense motion to subpoena 1,300 prospective jurors, Judge Edward A. Haggerty instead has made arrangements to have 80 of them subpoenaed to appear at 10 a. m. Monday when a hearing for change of venue in the Clay L. Shaw case resumes.

In a brief 12-minute session Monday, Haggerty reviewed the motion to subpoena the 1,300 names in the jury wheel—from which jury members are selected—and explained that defense attorneys for Shaw in "their research failed to disclose any jurisprudence or cases bearing on this particular point of law."

The judge said later that the questioning of each of the 80 witnesses could take "20 minutes to two hours" or more, depending on the questioning by defense and state attorneys.

## MOTION GIVEN

The defense motion was submitted last Wednesday during the second day of courtroom activity on the change of venue hearing.

Shaw, who is charged with participating in a conspiracy to assassinate President John F. Kennedy, is seeking to have his trial moved from New Orleans, his attorneys claiming that because of publicity generated locally during the past year he would not be able to get a fair trial here.

Shaw was arrested March 1, 1967. A preliminary hearing was held later that month and the three-judge panel that presided found that there was sufficient evidence to hold him for trial. Shaw has denied the charges.

Referring to continuances granted at the request of the defense attorneys, Haggerty said Monday:

"Continuances have been requested by the defense, and have been granted by the court in this matter. Even as of this date, this case cannot be set for trial by the state because the pleadings have not as yet been finally com-

pleted.

"It must be noted that the defendant, under the Constitution, is entitled to a speedy trial, and it also must be noted that justice delayed is justice denied."

In denying the motion to subpoena the 1,300 prospective jurors, Haggerty said he could find only one case where a motion had been entered to subpoena the jury wheel and that involved a 1944 case.

## RACE QUESTION

The purpose at that time, he said, "was to find out how many persons were of the white race and how many of the colored race. The form and slips themselves did not, and do not at this time, give any indication of race."

Haggerty said it was necessary for the prospective jurors to appear in the 1944 case "because that was the only way a legal determination could be made as to their race," but he added:

"I am of the opinion that a different legal situation exists in this instant case, because we are not trying to learn the race of the prospective jurors, but whether or not they have a fixed opinion as to the guilt or innocence of the defendant were they to sit on his case as a juror."

If he was to grant the motion, the judge added, "one would have to guess as to how many months it would take before we finally concluded the taking of the testimony of the approximately 1,300 witnesses. Were we to take 10 witnesses a day, it would take 130 working days."

Referring to the selection of a lesser number, Haggerty

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said he believed "it is entirely possible, feasible and legal," continuing that "with this sampling of the projected number, I believe that it could be fairly and legally ascertained whether or not the defendant can get a fair trial from the citizens of this parish."

## SELECT NAMES

He said he is requesting the other seven criminal district court judges to select 10 names each by lot from the list of jurors on their respective panels for March, making the selection Wednesday. Haggerty said he would include 10 selected from his section of the court and have the 80 persons subpoenaed to appear as witnesses on Monday.

The 80, he said, would be considered witnesses called by the court, and they will be subject to cross examination by both the defense and the state after being questioned by the judge.

Haggerty said he wanted to "specifically state in my ruling today that the defendant has not been denied his right to exhaust the entire jury wheel at the proper time. There is no limit to challenges for cause, and a legal cause for challenge

does exist when a person states he or she has a fixed opinion prior to serving on the jury.

He said Shaw's right to challenge for cause all prospective jurors still remains "his prerogative" when the case goes to trial.