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DA COULD STILL TRY SHAW, VIEW

Judge Researches Change
of Venue Matter

By BOB USSERY

What would happen to District Attorney Jim Garrison's conspiracy case against Clay L. Shaw if the trial suddenly were shifted to another jurisdiction?

Would Garrison and his assistants retain control of courtroom prosecution, or would they have to turn the controversial case over to another set of prosecutors?

Criminal District Court Judge Edward A. Haggerty Jr. researched the matter Thursday and concluded that the New Orleans district attorney would have little trouble taking over prosecution of his own case in another part of the state.

Shaw's attorneys have taken the legal step toward moving the trial out of the New Orleans area by filing for a change of venue.

HAGGERTY'S DECISION

They contend that almost constant publicity has made a fair trial for their client impossible in New Orleans and an area within a 100-mile radius.

Judge Haggerty would make the final decision on the defense plea, and would name the new jurisdiction. He refused to speculate on what his final decision may be, but agreed to review possible consequences if a transfer were to be granted.

First he pointed to Article 624 of the Code of Criminal Procedure.

This article says that once a change of venue is granted, all original documents and certified copies of minute entries in the case shall be delivered to the new court, and that the case "shall be proceeded with in the same manner as if the proceedings had originally been instituted therein."

This would seem to indicate

that the district attorney of the new jurisdiction must handle the prosecution.

APPARENTLY ROUTINE

However, article 63 on district attorneys, says: "The district attorney may employ or accept the assistance of other counsel in the conduct of a criminal case."

A study of several cases involving changes of venue revealed that the prosecutors from the original jurisdiction handled the cases in the new courtrooms.

Apparently, it would be a routine matter for the district attorney in other part of the state to "accept the assistance" of Garrison if a shift were made.

Interestingly enough, the law provides that the defendant or the state can apply for a change of venue.

The defendant cannot appeal the denial or granting of a change of venue until he has been sentenced. He then may make it a ground for appealing the guilty verdict.

The state, on the other hand, can appeal an adverse change of venue ruling before the trial is scheduled to start.