

Pinball Figures
Ordered Before
Federal Jury

U.S. Dist. Court Judge Herbert W. Christenberry today ordered two employes of New Orleans pinball companies to testify this afternoon before a special federal grand jury that is investigating charges of illegal gambling.

Christenberry ordered Nick Caruso, an employe of TAC Amusement Co., and Floyd Howard, an employe of Lucky Coin Amusement Co., to appear before the grand jury.

Christenberry granted the two immunity from prosecution on any matters they may testify to before the jury. However, he added, they are not immune if prosecution should be brought against them on matters other than those they testify to in the jury session.

The grand jury has been hearing evidence on pinball gambling in this area for more than six months. The jury has reportedly heard more than 200 witnesses. The investigation is being conducted under the auspices of U.S. Atty. Gerald J. Gallinghouse.

There has been no indication as to

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when the jury's work will be completed.

This past summer, on July 1, Dist. Atty. Jim Garrison and nine other persons were arrested on federal charges of illegal gambling and public bribery. They have not been indicted. The charges against Garrison and others, including two former police officers,

resulted from Gallinghouse' investigation.

The charges against Garrison and the others held that Garrison and the police officers accepted bribes to protect pinball gambling.

The allegations on which the charges were based was gathered by Pershing Gervais, a former chief investigator for Garrison and a one-time member of the New Orleans police force.

Smith Presses for DA Charge

By JACK DEMPSEY

Special prosecutor Benjamin E. Smith today asked the Louisiana Supreme Court to reinstate a malfeasance charge against Dist. Atty. Jim Garrison and to order the case tried in Criminal District Court.

Criminal Dist. Court Judge Malcolm V. O'Hara Monday dismissed the malfeasance charge Smith filed after being appointed to prosecute Garrison and nine others on state bribery and gambling charges.

There was speculation O'Hara would file an opposition to Smith's Supreme Court appeal later today.

SMITH, ACTING as district attorney

ad hoc, asked the high court to vacate O'Hara's dismissal order and remand the case for trial.

Smith's appeal contended that state law gives him as DA ad hoc all the powers of the recused district attorney in the specific case. He argued that because Garrison asked the Orleans Parish Grand Jury to indict him and the others, the indictments were "improperly brought."

"It is inconceivable," Smith said, "that a prosecutor would file charges against himself in the name of justice when he did not believe himself guilty. If he did not believe himself guilty it

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would be a dereliction of his duties to charge a man, even himself, he believed innocent.

"If his concern was that of 'removing a cloud' from his high office, the law provides for his resignation in such circumstances."

GARRISON asked for and got indictments from the Orleans Parish Grand Jury on bribery and gambling charges. The charges are identical to charges he and the nine others face in federal court.

O'Hara last week named Smith special prosecutor in the case.

In a series of surprise moves, Smith filed the malfeasance charge, saying the district attorney acted in bad faith because he was trying to use the state indictments as a means of avoiding prosecution in federal courts.

Smith contended then that an acquittal in state court would preclude prosecution in federal court because of the double jeopardy provisions of the Constitution.

JUDGE O'HARA allowed Smith to

dismiss the bribery and gambling charges but ruled Smith had no authority to file the malfeasance charge.

Judge O'Hara ruled that the law which permits the naming of an ad hoc district attorney prohibits his filing any additional charges.

In Smith's appeal today he said Judge O'Hara erred in so ruling.

SMITH'S APPEAL said, "It cannot be disputed that the district attorney ad hoc has the power to correct a default in substance and to dismiss defective charges and supercede them with proper charges. The malfeasance charge corrects the defect determined to have existed in the dismissed indictments procured by Garrison."

Earlier today Criminal Dist. Judge Israel M. Augustine denied Smith's request for a special grand jury to investigate the malfeasance charges against Garrison.

Judge Augustine ruled that such a move was premature because of Smith's plans to appeal the O'Hara ruling to the state Supreme Court.

Smith said he wanted a special grand jury because he feels the regular parish grand jury is "tainted."