

Hearing Set Wednesday  
GARRISON ASKS TRIAL SHIFT

By ALLAN KATZ

Criminal District Court Judge Malcolm V. O'Hara will conduct a hearing at 10 a.m. Wednesday on a request by Dist. Atty. Jim Garrison and nine others to move outside New Orleans their trial on charges of public bribery and gambling.

Attorneys for the 10 asked for the change of venue this morning, delaying their scheduled arraignment.

Garrison and the nine others were indicted by an Orleans Parish Grand Jury at his request on charges that are virtually the same as those brought against them in federal court June 30. The district attorney asked for the indictment because the federal grand jury has returned no indictment against them.

**WHEN THE DEFENDANTS ap-**

peared to enter pleas today, one of the defense attorneys, F. Irvin Dymond, asked for a change of venue. He was joined by the attorneys for the other defendants.

Dymond then provided the court and the prosecution with circulation figures by parish, of The States-Item and The Times-Picayune.

Garrison earlier had filed a written motion asking that his office be recused from the prosecution of the case. O'Hara granted his motion. O'Hara named attorney Benjamin E. Smith as acting prosecutor.

There was no representative of the U.S. attorney's office present. There was speculation that U.S. Attorney Gerald J. Gallinghouse, who brought the federal charges, might go into U.S. District Court here to ask that state charges be removed to federal jurisdiction.

GALLINGHOUSE has refused to make any public comment since Garrison asked a specially convened Orleans Parish Grand Jury to indict him and the others last Monday. However, sources close to Gallinghouse have speculated privately that Garrison is seeking to create a double jeopardy situation.

Under the U.S. Constitution, a person may not be tried twice for the same offense. The double jeopardy theory holds that Garrison would prefer to be tried on the public bribery and gambling charges in state court by a special prosecutor rather than in federal court by Gallinghouse, whose office has worked closely with a federal strike force that gathered evidence purporting to show Garrison and two New Orleans policemen conspired with

pinball interests here to protect gambling activities.

Garrison contended in a statement last Monday that he was seeking the Orleans grand jury indictment against himself and the other nine suspects because the failure of the federal grand jury to act on the charges had caused a cloud to hang over the entire matter.

**THE FEDERAL** grand jury, empaneled Aug. 2, has not brought in its report that could include the indictments against Garrison and the others.

The federal charges held that Garrison, police Capt. Frederick A. Soule Sr., former vice squad commander and

investigator in the DA's office; and Sgt. Robert N. Frey, vice squad commander, received bribes to protect pinball interests.

Also charged in the case were Louis M. Boasberg of New Orleans Novelty Co.; John J. Elms, a partner in TAC Amusement Co.; Lawrence J. Lagarde, a partner in TAC; Harby S. Marks Jr., an employe of New Orleans Novelty; Robert Mims, a principal stockholder in REN Enterprises; John Aruns Callery, a lobbyist for the pinball industry, and John Elmo Pierce, owner of Pierce Amusement Co.

**THE EVIDENCE** against Garrison and others was principally gathered by Pershing Gervais, a former investigator and confidante of Garrison's, who

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told in a 110-page affidavit of alleged payoffs by the pinball industry here to law enforcement officials.

Another question up in the air at this point is what Gervais' status would be if the case went to state court. Presumably, he would be subpoenaed by state officials to come to New Orleans to testify. Gervais' whereabouts are unknown.

Garrison has said he would recuse members of his staff from prosecuting the case if it is brought to a state court. In that event, the judge would name a special prosecutor.

# Fatal Day Noted by DA Here

Today is the eighth anniversary of the slaying of President John F. Kennedy, and District Attorney Jim Garrison, predictably, made the most of it.

Garrison, whose probe of the Kennedy assassination made international headlines, held an impromptu news conference today at the Criminal Courts Building where he was arraigned on bribery and gambling charges.

The DA took the opportunity to maintain his contention that the federal government is concealing facts about the assassination.

**CRIMINAL DISTRICT** Judge Malcolm V. O'Hara took under advisement motions to move Garrison's trial out of Orleans Parish, and the DA says he favors the motions in order to insure an objective trial.

"I would say in balance I'm in favor of it," he said of the change of venue motion. Removal of the trial to another location, he asserted, would leave "no question about the objectivity of the trial."

"I want the trial to be as objective and fair as possible," Garrison declared, "because I am convinced that with a fair trial I will be acquitted."

A trial of the DA in his own parish, he said, would always be suspected of a lack of objectivity by many people.

"**THE IMPORTANT** thing," he said, "is not what's happening to me, but what happened to John F. Kennedy eight years ago. There has been almost no mention in the news media about his assassination, and it is now eight years since the federal government has been concealing the truth about John Kennedy."

Garrison repeated his charge that the federal government was "deeply involved in the assassination of John F. Kennedy and continues to lie to the people, continues to keep the truth hidden."

Garrison refused direct comment when asked if he considered the charges against him, originally brought in federal court, as retaliation for his Kennedy assassination probe. New Orleans businessman Clay Shaw, accused by Garrison of plotting to kill the Presi-

dent, was acquitted in a jury trial in  
1980.

ASKED HIS REACTION to the ap-

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pointment of Benjamin E. Smith as special prosecutor in the case, the DA said he does not know Smith well, but considers him "an extremely competent attorney."

Smith, meanwhile, said his assignment to the Garrison case is "just another job." He said he has not decided on what legal moves will be taken, but he promised the case will be "vigorously prosecuted."

A former prosecutor under one-time Orleans Parish DA Richard Dowling—Garrison's predecessor—Smith said he assumes he will be retained as prosecutor regardless of the outcome of the change of venue motions.

SMITH SAID he has no personal feelings about Garrison, declaring his only concern is to "see to it that the state gets a fair shake."

Asked if he would attempt to subpoena Pershing Gervais, the principal informant in the federal case against Garrison, Smith said only, "It appears from the newspapers that he is essential." Gervais' whereabouts have been

a secret for some time.

Garrison appeared somewhat uneasy as he entered the Criminal Court building at 10 a.m., glaring at the bright television flood lights illuminating the courtroom door. He was wearing a brace under his blue suit to support his bad back.

IN THE COURTROOM, the DA chatted with reporters and his attorney briefly, but mostly sat stern-faced with his arms folded during the short proceedings. To Irving Dymond, an attorney for Shaw in the assassination trial who is now representing two of the other nine defendants in the current bribery case, Garrison said, "Irving, I'm glad you're on my side this time."

The DA, rising nearly a full head taller than the other defendants as they stood up one by one to hear the charges, raised his right hand and intoned, "I do," as the clerk asked him to attest to the veracity of the information contained in the change of venue motion.

Because of the motions, which Judge O'Hara took under advisement, the charges were never read.