

FIX ON JUDGE GARY.

Luetgert Retrial Court Is Decided on by Attorneys.

JURIST AGREES TO ACT.

Phalen Files Objections to Both Horton and Baker.

ASKS A CHANGE OF VENUE.

Judge Joseph E. Gary, who tried and sentenced the seven Haymarket Anarchists, will retry the Luetgert murder case, and in all probability the work of getting a new jury will begin next Monday. Luetgert's attorney, Albert Phalen, asked for a change of venue yesterday, filing an objection to both Judge Horton and Judge Baker. The selection of Judge Gary was unexpected.

Judge Gary, who is the oldest Judge on the Chicago bench, was selected at the request of the State's Attorney, who insisted that the case needed some one of wide experience and capability to preside. The appointment, which was made by Judge Horton, was conditional on Judge Gary's opinion whether he could stand the long strain.

Attorney Phalen made an effort to get the State's consent to some Judge other than Judge Horton, but was unsuccessful, and in order to get the case before some one else he was obliged to file affidavits and an application for a change of venue. Harry F. Kruger, the druggist, of whom Frank Blak bought the famous bottle of Hunyadi water, and Charles Dahrman, a real estate dealer at Cornelia and North Clark streets, made and filed the affidavits expressing belief that Judges Horton and Baker were prejudiced against Luetgert.

For Change of Venue.

Attorney Phalen's application for a change of venue reads as follows:

"The petition of Adolph L. Luetgert respectfully represents that he is the defendant in the above entitled case (The People vs. Adolph L. Luetgert), and that he fears he will not have a fair and impartial trial in the above entitled cause before the Hon. Oliver H. Horton and the Hon. Frank Baker, two of the Judges of the Circuit Court of Cook County, because the said Hon. Oliver H. Horton and the said Hon. Frank Baker, said Judges as aforesaid, are each of them prejudiced against him, and that a knowledge of such prejudice did not come to petitioner's notice until the 20th day of November, A. D. 1897. Petitioner therefore prays a change of venue in this case from said Hon. Oliver H. Horton and from the said Hon. Frank Baker, said Judges aforesaid, pursuant to the statutes in such case made and provided. A. L. LUETGERT."

Kruger and Dahrman are both old friends of Luetgert. Several years ago Dahrman was appointed receiver for the Risto planing mills and Luetgert furnished part of the security. Kruger testified both for the State and the defense in the recent trial.

Scenes in the Court.

State's Attorney Deneen did not come into court with Luetgert and the other personages in the famous case, and Assistant State's Attorney McEwen did the talking for the prosecution. Luetgert, looking sallow and worried, took in every word, and carefully read over the petition and affidavits before they were filed. Judge Horton also read over the affidavits, and when he came to the mention of his name he was inclined to be sarcastic.

"I want to thank you, Mr. Phalen," he said, "for making this application. I don't believe there is a man in the city who knows less about the Luetgert case than I do. I was absent from the city most of the time while it was being tried, and I know almost nothing about it. It is a compliment, and I appreciate it."

Mr. McEwen said the State would be satisfied with Judge Gary. The mention of the distinguished Judge's name evidently took Mr. Phalen by surprise. He had expected some one of the Circuit Court Judges would be named, and had no idea that the State would go to the Superior Court bench.

Judge Gary Is Selected.

Luetgert glowered while Judge Horton and Mr. McEwen discussed the probability of Judge Gary's accepting. As the latter was sure there would be no difficulty over that, Judge Horton named Judge Gary, with the condition that he might decline on the ground of health. Later in the day Judge Gary signified that he would act.

The date at which a venire will issue for the Luetgert jury depends on what disposition is made of the tax assessment cases which are now being heard in Judge Gary's court. It was suggested yesterday that he and Judge Horton change benches until after the Luetgert trial, but the latter was unwilling, and some arrangement will probably be made today. State's Attorney Deneen does not believe the trial will last more than five weeks, and in that event it is thought the hearing of the assessment cases may be postponed. Attorney Phalen will probably consent today to the trial beginning on Monday.