

ADMITS URGING PAY FOR STATE WITNESS

Heffernan, Ex-Prosecutor in Kings, Takes the Stand in Police Slaying Case

Assistant Corporation Counsel Edward A. Heffernan, who as an assistant district attorney in Kings County took part in the investigation of the slaying of a patrolman in Coney Island during a hold-up, admitted yesterday that he made "recommendations" that resulted in the prosecutor's office making a "series of payments" to a convict who appeared as a State witness in a murder trial.

Taking the stand in Kings County Court at the retrial of Morris Malinski, who is charged with the patrolman's slaying, Mr. Heffernan said, under cross-examination by defense counsel, Joseph A. Solovei, that he "spoke to Mr. Moran [James Moran, then chief clerk in the District Attorney's office] and made the recommendation" for payments to Nathan Spielfogel, a convict doing thirty to sixty years in Sing Sing for robbery.

Mr. Heffernan testified that sums of money were paid to Spielfogel soon after he was brought from Sing Sing to Brooklyn as a prosecution witness at Malinski's first trial, in 1943. But he denied knowing the amounts Spielfogel received, declaring that the "sum was fixed by somebody else, possibly Mr. Moran."

Says He Got \$10 to \$20 a Week

Spielfogel, who has recanted his previous testimony and, as a defense witness, charged the District Attorney's office and the police with "framing" Malinski, had told Judge Louis Goldstein and an all-male blue ribbon jury on Tuesday that he had received from the

prosecutor's office weekly payments of \$10 to \$20 for nearly three years and that he had been otherwise favored after he had agreed to testify against Malinski.

Mr. Heffernan denied vehemently that he had "suborned or attempted to suborn Spielfogel" at the first trial or that he had instructed the latter on the details of the crime for the purpose of imparting the information to Malinski for a confession later.

When neither the defense nor the State had asked Mr. Heffernan about Spielfogel's charge that the former District Attorney had provided him with a woman, Judge Goldstein put the question to the witness.

Denies Convict's Charge

"It has been testified here," the judge said, "that you provided a woman for the witness Spielfogel for sexual purposes."

"Most emphatically no," Mr. Heffernan declared. "Nothing is farther from my character."

An earlier prosecution witness, Acting Capt. James McNally, who was in charge of the police investigation of the murder, denied, under cross-examination, that Malinski had been mistreated during his four-day stay at a Brooklyn hotel before he was charged officially with the crime. He added, in condoning the payments to Spielfogel, that "all stool pigeons receive money."

Malinski's retrial followed a reversal by the United States Supreme Court of the first-degree murder conviction. Malinski is charged with slaying Patrolman Leon Fox while the latter was guarding a theatre manager en route to a bank to deposit the day's receipts.