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D.A. ELECTION INQUIRY CASE IS DISMISSED

Garrison Attorneys Apply for Writs of Appeal

By JERRY TOLBERT

Saying it gives him no joy to ring down the curtain on such an illustrious and colorful career, Civil District Court Judge Thomas A. Early Jr. Thursday dismissed District Attorney Jim Garrison's election contest suit.

The case was argued Wednesday before the judge by Gibson Tucker Jr., attorney for Garrison, and by Fritz H. Windhorst, attorney for the declared winner, Harry Connick, defendant along with the Orleans Parish Democratic Executive Committee and the secretary of state. Connick apparently received a majority of 2,220 votes in the Dec. 15 second primary.

Standing room crowds were present both days. Garrison's attorneys immediately applied for writs to the Fourth Circuit Court of Appeal.

A hearing there was set for Jan. 2 at 7 p.m. Judge Ernest N. Morial will be among the nine judges sitting since he will be sworn in that morning.

In 20 pages of reasons for judgment, Judge Early revealed extensive research into the subject from the Wednesday morning hearing until late into the night.

He first took on the problem of whether Garrison should be permitted to file into the record second and third supplemental petitions, which were objected to by Connick's lawyers.

Judge Early said, "This court in arriving at its decision today has considered at length and exhaustively R.S. 18:364 and the many cases which have discussed and interpreted R.S. 18:364. . . ."

ELECTION LAW

To say that our courts and particularly our Supreme Court have strictly interpreted the harsh language of our election laws would be putting it mildly, the judge said.

"Although this court is greatly tempted to exercise its discretion in signing the requested

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order to allow the plaintiff to file his second and third supplemental and amended petitions, thus giving the plaintiff every opportunity to move forward in his cause, giving him so to speak his full day in court, rather than a half day, the court is likewise obliged to consider the defendant, Connick, giving him also the opportunity to have his full day in court by having the proper amount of time to prepare his defense of the second and third supplemental and amended petitions filed herein; particularly the voluminous third supplemental and amended petition.

"In other words, would my attempting to be extremely fair to Garrison by allowing him to file

his second and third supplemental and amended petitions be fair to Connick under a strict interpretation of R.S. 18:364. This court does not feel that it can so do."

Judge Early said the rush-rush manner called for in contesting an election is obvious to even an untrained reader of the law.

"Therefore, it is obvious to this court that the intention of the Legislature that the original petition filed ab initio must be one setting forth specifically in detail the grounds on which the contest is based and specifically in detail the irregularities or fraud of which complaint is made.

"To interpret otherwise would mean that a contestant could file a shell of a petition in order to beat the two day limitation and then supplement and amend in detail."

In addition, he said, the second and third supplemental petitions, although bulging with specifics and particulars, still do not state a cause of action for Garrison.

Referring to the charge that 223 named persons voted in a Precinct 10 although they were not residents of that precinct, he said while this constitutes a substantial irregularity, "it is not sufficient to warrant the annulment of the entire election, particularly in the absence of allegations that plaintiff was unable to follow the procedure provided by law or otherwise made any protest against the illegal voting.

"Plaintiff had the remedy of purging the registration rolls and, further, anyone of his watchers or any qualified voter (he alleges that he had no commissioners at the poll) could have called the attention of the commissioners to this infraction of the law.

"Since plaintiff fails to allege that he challenged these votes, he has no cause for complaint."

Judge Early held that Garrison does not state a cause of action because the allegations are too general and fail to comply with the election law pre-

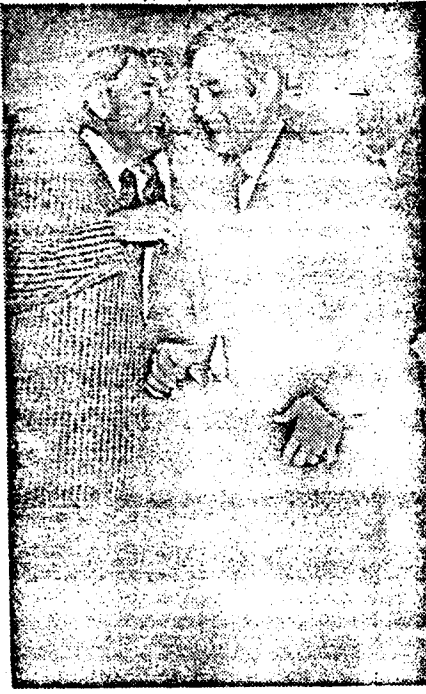
viously quoted.

"In other words, the original and first supplemental and amended petitions assume because of a difference in the voting machines and the register slips, fraud was perpetrated.

"But the original petition and the first supplemental and amended petitions fail to state who were the perpetrators or what persons and what names were used by the perpetrators in casting the fraudulent and illegal votes, what commissioners blocked potential voters from coming in to vote for Garrison, what precincts specifically did not have a commissioner favorable to contestant Garrison, etc."

Ad libbing in conclusion, Judge Early said, "Needless to say, it gives this court no great joy to be the one to ring down the curtain on such an illustrious and colorful career as that of Jim Garrison, our district attorney for so many years.

"But this court cannot of course be a court of feelings or sympathy — but one of law, that is, what is its appreciation of the law."



—Photos by James W. Guillot of The Times-Picayune Staff.

A BEAMING HARRY CONNICK (right) is surrounded by wellwishers, after Civil District Court Judge Thomas A. Early Jr. threw out a court suit by Dist. Atty. Jim Garrison (left) against Connick's runoff elec-

tion victory. Connick's top campaign aide, Guy LeMieux, stands on Connick's right and shares the joy of the moment. Garrison has appealed the verdict to the Fourth Circuit Court of Appeal.