

Gallinghouse: Marked Money, Tapes Will Prove D.A.'s Guilt

Lawyer Says Reprisal Reason for Trial

By JOHN McMILLAN and DON HUGHES

U.S. Attorney Gerald J. Gallinghouse told a federal jury here Tuesday that the government would prove through witnesses, marked money and tape recorded conversations that Dist. Atty. Jim Garrison and others made and accepted bribes to keep the illegal pinball gambling business operating in New Orleans.

But Louis B. Merhige, one of Garrison's attorneys, said that his client is innocent of any wrongdoing and is being prosecuted simply because he has been "a thorn in the

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side of the federal government for years."

Merhige said the tape recordings with Garrison's voice on them were "manufactured and manipulated by Mr. Pershing Gervais," whom, he claimed, the government is afraid to put on trial.

Gervais worked for the government in an undercover investigative capacity to bring about the charges against the defendants in the trial. He later said he was "seduced" into working for the government.

Besides Garrison, those on trial are Robert Nims, the owner of REN Enterprises, and John Aruns Callery, a former pinball distributor and a government-described lobbyist for the pinball industry.

GUILTY PLEAS

Two former police officers and five pinball distributors either have been severed from the case or pleaded guilty since their arrest with the defendants.

The former police officers are Frederick Soule Sr., who worked in Garrison's office; and

Sgt. Robert Frey, who commanded the vice squad.

The pinball figures are Louis Boasberg, the owner of New Orleans Novelty Co.; Harby Marks Jr., an employe of Boasberg's; John Elms Jr. and Lawrence Lagarde Sr., partners in TAC Amusement Co.; and John Elmo Pierce, the owner of Pierce Amusement Co.

Gallinghouse said in his opening statement, which lasted one hour and 40 minutes, that Garrison, Soule and Frey received the bribery money which was conveyed to them by Callery and Marks.

He said Pierce will testify that at a meeting of pinball distributors it was agreed to make payments for information regarding planned raids against the pinball machines by the police.

PAYMENTS ALLEGED

Gallinghouse said that Elms and Lagarde were to pay \$5,000 every three months, Boasberg the same, Nims \$1,000 and Emile Willie, a pinball operator who was not indicted, \$500.

Also, Santo DiFata, another pinball distributor, was to pay \$1,300.

This money was taken to Soule who split it with Frey, and to Pershing Gervais, who passed it on to Garrison, Gallinghouse said.

Gallinghouse said the government will present "tape recordings of actual conversations which will allow you to hear actual voices of the defendants on trial as they discuss the illegal pinball machine business and the giving and taking of bribes."

He said the government will play 55 tape recordings of more than 70 "actual conversations which you (the jury) can listen to just as if you were actually there."

"You will hear from the lips of the defendants . . . the history of the illegal pinball gambling business in Louisiana," Gallinghouse said.

RECORDINGS MADE

He said the recordings were made by Gervais and include 30 with Soule, 20 with Boasberg, eight with Elms, eight with Callery, two with Nims, five with Marks and six with Garrison.

And, he continued, the government will call to the stand sev-

eral of the original defendants in this case in addition to bar room owners, coin collectors and others involved in the pinball business.

Gallinghouse said 35 overt acts would be proved including discussions about bribes and the actual making of bribes. This will include payments made to Garrison, the night before his arrest and to Soule and Frey on the day of their arrests.

All those arrested in the case were picked up June 30, 1971. The investigation began Oct. 15, 1970.

Gallinghouse said the evidence would show that on June 29, Gervais received \$2,000 from Marks to be split between the police officers and Garrison. When Gervais told Garrison he had the money, Garrison asked him to bring it over, Gallinghouse said.

MARKED BILLS

That Gervais did after special agents of the Internal Revenue Service had substituted marked bills for the money delivered by Marks. Then Garrison took the money and locked it in the middle drawer of his desk, Gallinghouse said.

The next morning the agents arrested Garrison, and when he declined to give them the key to the desk drawer, they forced it open and found the marked bills, the U.S. attorney said.

Soule and Frey were also arrested with marked money in their possession, Gallinghouse said.

And on a previous occasion, Gallinghouse said, an investigator of Garrison's paid a bill of the DA's at the Fontainebleau Motor Hotel with marked bills Garrison had received from Gervais.

And while all the defendants named in the indictment returned by the federal grand jury may not have all met and conspired together at the same time, Gallinghouse said, the government would prove they were all a part of one conspiracy to violate the gambling laws of Louisiana.

MERHIGE SPEAKS

Merhige, who spoke about 30

minutes, told the jury that "this case against Mr. Garrison began some time ago, long before the time charged in the indictment."

Merhige said Garrison "was designated in the words of the government as a 'target' for prosecution because Mr. Garrison has been a thorn in the side of the federal government for years."

Merhige said, "It will be clearly adduced by the evidence that Garrison was a 'target' of the government's. 'I think you will be convinced Mr. Garrison has been a thorn by attacking governmental reports such as the Warren Commission assassination report.'"

At this point U.S. District Judge Herbert W. Christenberry, who is trying the case, told the jury to "just follow the law." To Merhige he said, "We're not going to try the Warren Commission or anybody else here. Let's hear no more about it."

Since 1967 Garrison has accused the government of fabricating evidence in the Warren Commission report on the assassination of President John F. Kennedy to cover up the "true" reason the late President was gunned down in Dallas.

Merhige continued by telling the jury that the government is guilty "of misconduct in this case and has shown bias in this case. Garrison has written and spoken out volubly against the Justice Department. He will testify and demonstrate this fact to you."

Merhige said the evidence will show that Garrison has not met or talked with most of the defendants charged by the government and that 95 per cent of all the evidence does not involve Garrison.

Referring to the tape recordings, Merhige said it will be shown what can be done with tapes—"splicing tapes, cutting the middle out of tapes and then getting people to testify the tapes are valid."

He said all of the government's witnesses will either have been paid by the government or promised something such as less vigorous prosecution for their testimony.

"The only person besides Mr. Garrison who knows what was said and went on those tapes was Mr. Pershing Gervais. He is very unlikely to work for the government unless the government was doing something for him. He was paid \$22,000 a year to hide, to stay away from this city, this state and this country" after being involved with the government, Merhige said.

"The government won't use Pershing Gervais as a witness. We would like them too, but he has too checkered a past for the government to put him on the stand except in desperation as a rebuttal witness."

ELECTION YEAR
Garrison is being brought to trial at the present time because it is an election year, Merhige said. "During an election year campaign he is forced to be here on trial. This is political destruction."

Judge Christenberry interrupted Merhige to say that "The time was set by the court. It has nothing to do with the election."

Merhige continued, saying that if the government were to put Gervais on the stand "we would prove by his own statements on television that he has said that it was a bogus case on Jim Garrison, and it was an outright attempt to destroy Jim Garrison."

"I submit that after the evidence has been presented there will be substantial reason for doubt in your mind" as to the guilt of Garrison.

In Tuesday afternoon's testimony, William E. Harward Jr., a special agent with the Federal Bureau of Investigation in Washington, D.C., was called to the stand by Gallinghouse as an expert witness on the electrical and mechanical workings of pinball machines.

As the FBI laboratory specialist was stating his qualifications, Garrison sat at his defendant's table, eyes downward, reading a book as he had for most of the day.

PINBALL MACHINE
Harward, with the FBI for more than 22 years, then gave the court a detailed, technical description of a Bally bingo-type, multiple coin pinball machine which stood on the courtroom floor as the government's first exhibit of the trial.

He touched on the device's electronic mechanisms, how it is activated by insertion of coins, how odds are arrived at, and how extra plays or "games" are won by the player.

Harward testified that the coin box of the particular type machine on display would hold, when full, some \$240 in nickels or more than \$950 in quarters, and proceeded to visually demonstrate the machine by placing coins in the slot and shooting the balls.

The witness stated that such machines come equipped with "adjustment plugs" which a pinball mechanic or machine owner could alter to increase or decrease the odds of a player winning additional games.

On the question of skill, Harward testified that the machine generally is in control of the game and the player's skill has relatively little influence over the outcome of a given game.

The trial will resume at 10 a.m. Wednesday.

Garrison's Tax Fraud Trial Set March, 1974

A case in which Dist. Atty. Jim Garrison is charged in three counts with filing false federal income tax return for the years 1965, 1966 and 1967, has been set for trial March 18, 1974, by Federal District Judge Edward J. Boyle Sr.

The indictment charging the tax violations was returned at the same time as the indictment naming Garrison along with two former police officers and seven pinball figures and alleging bribery in connection with pinball operations. That case is now being tried before Federal District Judge Herbert W. Christenberry.

The income tax indictment charges that Garrison reported a total income of \$35,670 for 1965, \$28,984 for 1966, and \$17,984 for 1967, knowing that in each of those years he had substantial income in addition to those figures.