★ ★ ★ ★ ★ ★

JUDGES' BAN TOPIC

Plan Bond Hearing

Criminal Court judges said today they will hold a public hearing "in four or five days" to determine whether they ought to accept bail bonds written by agents of Maryland National Insurance Co., which owes $720,775 in forfeited bail bonds.

Attorneys for Maryland National attended a meeting of seven of the 10 Criminal Court judges today to contest the decision not to accept any more Maryland National bail bonds.

THE JUDGES yesterday announced the decision after another en banc session. They said they were reluctant to accept bonds written by a company which owes $720,775, but has only $70,000 on deposit with the state of Louisiana.

Maryland National attorneys filed a motion with the clerk of Criminal Court asking the judges to set aside their decision ordering no more Maryland bonds be accepted.

Judge Bernard J. Bagert, speaking for the Criminal Court judges, said Maryland attorneys made available to the company a statement of the firm's assets at the close of 1968. The intent of the presentation is to demonstrate that Maryland National can pay off any liabilities it may incur.

District Attorney Jim Garrison, who has admitted

See BONDS— Page 6

Bonds--

Continued from Page 1

his staff lagged in collecting forfeited bail bonds during 1966-69, says he is determined to collect "every penny" owed by the company.

JUDGE BAGERT said the judges "will take several days to individually study the Maryland National financial statement and will set a public hearing so we might consider publicly our course of action."

In its financial statement, Maryland National shows assets of $3,457,011.91.

The motion asking the judges to rescind their judgment noted Maryland National is a part of the Lykes Insurance Group and is doing business in 20 states.

The motion stated the company "has assets which make it fully capable of paying judgments of $1 million worth of allegedly valid judgments now on the docket of this court."

ALTHOUGH the Maryland motion states $1 million is owed, Assistant DA Shirley Wimberly Jr., has said the figure owed is in excess of $700,000. A states-Item survey showed the figure to be $720,775.

Wimberly said the Maryland figure of $1 million may include $300,000 worth of bond forfeitures that either have been or can be set aside.

In another court action, Federal District Judge Lansing L. Mitchell yesterday dismissed an action brought by Maryland National seeking to enjoin judges of Juvenile Court from refusing to accept the company's bonds.

Judge Mitchell held that the action was premature, in that no evidence was produced showing that Judges James P. O'Connor and James C. Gulotta have ever actually refused to accept bonds of the company.

Both judges have assured him, said Judge Mitchell, that they have not turned down any Maryland bonds and will not do so without holding a solvenc hearing to determine if th company would be able to pa in the event bonds were ordere forfeited.

Serious Trouble Indicated For N.O. Bail Bond System

S-1 8/6/69

By ALLAN KATZ

Where does the bail bond system go from here?

A sifting of the evidence would indicate it's in a lot of trouble.

The public treasuries are owed $720,775 in debts accumulated during a period from 1966 to the present by just one bail bonding company—the Maryland National Insurance Company. Maryland has a deposit of only $70,000 with the state of Louisiana.

Even worse, as this series has documented, there is evidence many persons accused of crimes are released on bail, never appear for trial and are not actively sought unless they are caught committing a second crime.

THE FOUR MEN WHO CAN answer the question, "where is the bail bond system going from here?" will be available for public questioning in the next 90 days.

They are the men running for Orleans Parish district attorney in the Nov. 8 Democratic primary.

The first, of course, is incumbent Jim Garrison.

Opposing him, presented in alphabetical order, are Harry Connick, Ross Scaccia and Charles Ray Ward.

Each has presented his views on what needs to be done about the bail bond system.

The incumbent, Garrison, says he never has been timid about bail bond reform.

WHEN HE WAS ELECTED in 1962, he moved against flaws in the bail bond system.

In 1966, he was censured by the Legislature when he suggested that body might well probe the possibilities of bribery in the passage of a law that aided the bail bond companies.

The law, which Garrison says is responsible for much of the bail bond system's failures, gives a bail bond company a six-month grace after a bond has been forfeited.

By stringing out the process to six months before the DA can move to forfeit a bail bond enormously complicates the bookkeeping necessary to track the bail bonding business, says Garrison. By the time the six months has expired and more time is taken for an appeal by the bail bond company, a year may well have elapsed before the DA can seize a forfeited bond.

GARRISON SAYS THAT as DA he has to take responsibility for the failure to collect forfeited bail bonds in the period from 1966-69.

He has now instituted court proceedings to collect the $720,775 owed. These are presently tied up in federal court.

And, Garrison says he has appointed Assistant DA Shirley Wimberly Jr. to set up a fool-proof system that will prevent a recurrence of the errors that allowed Maryland National to build up a huge amount of unpaid forfeited bail bonds.

"The system can work," says Garrison. "It worked before and we are developing new, improved procedures that will assure it will work even better in the future."

HIS OPPONENTS SAY THEY doubt it.

Connick, a former assistant U.S. attorney, says the present bail bond mess "is the product of incompetence in

(Turn to Page 6, Column 1)

Continued from Page 1

the DA's office. Effective control and concern are absent."

He says Garrison's assistants are now tied up in federal court trying to collect forfeited bail bonds when they should be in Criminal District Court prosecuting criminals.

Connick says: "The DA should recommend to the criminal court a bond which takes into account the criminal propensities, habits and criminal record of the defendant.

"It is evident that the many missing defendants are poor bond risks. Their bonds should have been higher than those set.

"WHEN A DEFENDANT FAILS to appear as directed, action should follow immediately which will bring about forfeiture of his bond.

"Once forfeiture is effected, the money should be collected on a case by case basis. This can only be accomplished by diligent work practices.

"A constant check must be maintained to determine what bonding companies are writing the bonds. Once the amount of bonds forfeited approaches the amount on deposit with the State Treasurer, that company should no longer be allowed to write bail bonds if there is any indication that the company is or may be insolvent."

Connick also favors having regular periodic checks of bail bond forfeitures and collections by the city auditor as an outside control to assure no bail bond company piles up a huge backlog of forfeitures.

WARD, FORMER FIRST assistant to Garrison who is now running against his former boss, calls the bail bond business "an unfortunate hangover from the feudal days of criminal law."

He says that where once bondsmen knew their clients and their clients' families, "we have today an impersonal, corporate being for the bondsman.

"The corporation knows nothing of the accused, his family or friends. The relationship is solely a business one."

The result of the system, Ward says, is that a person accused of a minor offense remains in jail if he hasn't the money for bail while a hardened criminal can go free if he can pay the bondsman's premium."

WARD SAYS HE FAVORS increased emphasis on a release-on-recognizance system that frees people accused of minor crimes without bail until their trial. He said such people usually appear for trial.

For others, he favors increased use of property bonds. The accused person places a mortgage on his property or on the property of a person who is to be his bondsman.

"These bonds do not have to be great in amount," says

Ward. "There should be a substantial reduction from the amount of bonds set today."

Ward also feels that in cases such as armed robberies bond should be very high or there should be no bond allowed at all where the previous record of the accused person makes it seem a risky proposition that he will show up for trial.

WARD ARGUES THAT A lesser reliance on bail bond companies "would remove the profit motive from the daily business of the Criminal Courts."

Scaccia, a former assistant district attorney, says that "90 per cent of the problem is the failure of the district attorney to set reasonable bonds."

He says the DA's office has become a vast machine trying to prosecute every case brought to it. The result of trying to do everything he says, are bonds too low for hardened criminals and too high for noncriminals who find themselves involved with the law for the first time.

Scaccia also believes Criminal Court judges must accept responsibility for what he calls "the failure of the committing magistrate and release-on-recognizance programs." Both program are intended to release accused persons without bail where there is a good possibility they will show up for trial.

"BOTH PROGRAMS SPRING from good ideas but they're hardly used at present," he says.

Scaccia says he believes the role of bail bondsmen should be limited by new procedures that would release persons accused of minor crimes without bail while reserving higher bail for those accused of serious crimes.

"The whole problem is in administration," he says. "The judges and the DA's office are afraid to make a decision about release-on-recognizance because they're afraid of making an error."

BEYOND THE CANDIDATES there are other voices calling for a lesser reliance on the bail bond system.

Aaron Kohn, executive director of the Metropolitan Crime Commission; Fred Blanche, director of the Louisiana Chapter of the American Civil Liberties Union, and Bernard Burk, vice-president of the Criminal Courts Bar Association, all agree there should be greater reliance on a committing magistrate system where defendants are divided into two categories—those who are likely to appear for trial and can be released and those who are bad risks.

Similrly, the report by the President's Commission on Law Enforcement and the Administration of Justice recommends:

"BAIL PROJECTS SHOULD be undertaken at the state, county and local levels to furnish judicial officers with sufficient information to permit pretrial release without financial condition of all but that small portion of defendants who present a high risk of flight or dangerous acts prior to trial."

Says Kohn: "If it were possible to carry out such a recommendation, there would be a dual effect.

"One result would be the end of the odious bail bond system which is a blight on criminal justice.

"The second would be an opportunity to speed up the entire judicial process by assuring far more effectively than at present that defendants will be present for trial."

(Last article in a series of three.)

STATES-ITEM

AUGUST 6, 1969

Gervais Hits Statement By Ward

5-18/1764

Pershing Gervais, former chief investigator for Orleans Parish District Attorney Jim Garrison, today objected to being mentioned in a statement by Charles R. Ward concerning the bail bond system in New Orleans.

Ward, former first assistant to Garrison who is now running for DA against his former boss, said in the statement that at one point he fired Clyde Merritt, an accountant in the DA's office, because of Merritt's close association with Gervais.

In a statement, Gervais said:

"I am genuinely perplexed since I have unequivocally spent infinitely more time in the company of Mr. Ward than any other member of the DA's staff. I am even more perplexed because yesterday I asked Mr. Ward about his statement and he denied having made it. And, unlike Mr. Ward, I can prove what I say. I would remind Mr. Ward of that."

(Editor's note: Ward's statement to the States-Item was in writing.