

By ALLAN KATZ

Criminal District Court Judge Malcolm V. O'Hara today dismissed a malfeasance charge against Dist. Atty. Jim Garrison, claiming that special prosecutor Benjamin E. Smith had no authority to file the charge.

Smith immediately announced that he would seek a review of Judge O'Hara's decision from the Louisiana Supreme Court later today.

At the same time, Judge O'Hara allowed Smith to drop public bribery and gambling indictments against Garrison and nine others returned by an Orleans Parish Grand Jury.

SMITH was named as a special prosecutor when Garrison asked for and got indictments from the Orleans grand jury that are identical to the

charges he faces in federal court.

In a series of surprise moves, Smith filed the malfeasance charges, saying the district attorney acted in bad faith because he was using the state indictments as a means of avoiding prosecution in the federal courts.

Smith's contention was that an acquittal in state court would preclude his prosecution in federal court because of the double jeopardy provisions of the Constitution.

Friday night Smith announced he was dropping the indictments but would push ahead with the malfeasance prosecution. He said his inability to obtain evidence gathered by federal investigators made it impossible for him to prosecute the bribery and gambling indictments.

"I think there is some substance to

the charges, but I'm not going to prosecute somebody I don't have any evidence against," Smith said.

JUDGE O'HARA said today the Louisiana code which permits the naming of an ad hoc district attorney prohibits his filing any additional charges, but Smith took the position that it would since it involved the same case.

Immediately after the 15-minute-long hearing, which neither Garrison nor any of the other defendants attended, Smith denied there was any collusion

## THE STATE

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with the federal government to dismiss the charges.

He said the only time he talked with U.S. Atty. Gerald J. Gallinghouse was when he asked for the government's evidence.

Smith indicated the state public bribery and gambling charges could be reinstated once the case goes to trial in federal court and the evidence is made known.

Garrison, two former high-ranking police officers and seven persons identified as being connected with the pin-

ball industry here were charged with bribery to protect illegal pinball operations.

A FEDERAL grand jury, which has been looking into organized crime activities, has had the case under advisement, but has returned no indictments in the Garrison case.

Smith said his dealings with Gallinghouse have been cordial, but added, "I think Gallinghouse has been remiss in not giving them a speedier trial."

Smith said he did not believe the moves in state court would force quicker federal action, but he predicted nonetheless that Garrison's federal trial would begin "in the near future."

Gallinghouse has declined to comment on the state proceedings involving Garrison.

## ES-ITEM

New Orleans, La.

10 Cents

## Jack Gremillion Denied Request For New Trial

U. S. District Court Judge Fred J. Cassibry today denied Louisiana Atty. Gen. Jack P. F. Gremillion a new perjury trial.

Judge Cassibry issued no written reasons for denying the request and set no date for sentencing of Gremillion.

Gremillion was convicted Sept. 25 of lying when he told a federal grand jury he had no financial interest in the bankrupt Louisiana Loan and Thrift Corp.

In his motion for a new trial, Gremillion argued that Judge Cassibry wrongfully denied his motion to dismiss the indictment on the ground the testimony he gave was not given with a corrupt motive and was not material to the LL&T investigation.

The motion also contended that the truth or falsity of Gremillion's testimony was decided in the case in which the attorney general and two others were acquitted of conspiracy and fraud growing out of the LL&T operation.

Gremillion, state Rep. Salvador Anzelmo and Ernest A. Bartlett Jr., former LL&T board chairman, all won acquittal last summer after a lengthy federal court trial.