

WEDNESDAY, MAY 17, 1972

Garrison Case Dismissal Asked

By JAMES HEARTY

A Boston attorney argued in U.S. District Court here today that gambling and bribery charges against Dist. Atty. Jim Garrison and nine others should be dismissed because there is no federal issue involved and it is strictly a matter for the state courts.

Mark Kadish of F. Lee Bailey's law firm, said the indictment in no way raises the question of interstate commerce, that it is strictly an intrastate question and if any violation did exist it would be against state law and not an issue for the federal courts.

"I THINK it's time for the district courts to take a close look at the statute and to stop the intrusion by the federal government into the state's police powers," Kadish told Judge Herbert W. Christenberry.

Kadish's argument came shortly before the judge took under advisement 69 technical motions involving the charges that Garrison, two former policemen and seven pinball machine figures conspired to protect illegal pinball machine operations.

"The key to this case deals with an area that should stay within the police powers of the state," Kadish claimed.

Judge Christenberry, however, said the indictment clearly states that the pinball machines are not manufactured in Louisiana.

K. ERIC GISLESON, representing the government, countered that there are nine cases upholding the law under which the defendants are charged and these indicate that the federal government can reach into intrastate commerce in certain cases.

Garrison was not present to hear Kadish's arguments. His presence had been waived by Kadish and defense attorney Lou Merhige.

Kadish also argued that because of the importance of this case and because of the large number of witnesses expected, the defense should be

furnished a copy of grand jury testimony well in advance of the trial rather than just before it, as the government wishes.

Most of the motions were submitted to the court in written briefs and were not argued orally.

THE TWO former policemen charged with Garrison are Frederick A. Soule Sr., 51, a one-time captain who was a investigator in the district attorney's office, and ex-Sgt. Robert N. Frey, 38, who headed the vice squad.

Pinball operators charged included Louis M. Boasberg, 60, a partner in New Orleans Novelty Co. and New Orleans Novelty Sales Co.; John J. Elms Jr., 29, a partner in TAC Amusement Co.; Lawrence L. Lagarde, 52, a TAC partner; Harby S. Marks Jr., 57, a New Orleans Novelty employe; Robert Mims, 40, a principal stockholder in REN Enterprises, a holding company for the Lucky Coin Machine Co., AMA Distributors and RDM Corp.; John Elmo Pierce, 54, owner of the Pierce Amusement Co.; and John Aruns Callery, 63, a lobbyist for the pinball machine industry.

The four-count indictment charged all 10 men with illegal gambling, use of bribery to obstruct law enforcement, interstate travel to aid in racketeering and conspiracy to violate these laws.

A 113-PAGE affidavit signed by the chief of the intelligence division of the International Revenue Service, Floyd D. Moore, alleged that payments of up to \$1,500 a month were being made to Garrison and the policemen to protect the pinball machine operations.

It stated that Pershing Gervais, former chief investigator for Garrison, was the intermediary to whom the bribes were made by the dealers and operators, and that Gervais delivered the money to the law-enforcement officers.

Ward Is Sworn In To Replace O'Hara

MAY 19 1972

Charles Ray Ward was sworn in today as a Criminal District Court judge, replacing retired Judge Malcolm V. O'Hara.

Dist. Atty. Jim Garrison, Ward's former boss and one-time political foe, showed up to speak some kind words for the new judge and some unkind ones for the federal government.

Garrison, who defeated Ward in the DA's election in 1969, said his former first assistant "will not be a good judge. He will be a great judge."

The DA, who is under federal indictment for public brib-

ery and gambling, said, "The state courts are our last and best hope for justice at a time when the federal judiciary has become corrupt."

Ward was sworn in at an en banc session of the criminal judges in the Section H courtroom of senior Judge Bernard Bagert. Administering the oath was Joe D. Sanders, associate justice of the Louisiana Supreme Court.

Sheldon Beychok, executive counsel to Gov. Edwin W. Edwards, represented the governor and said Edwards "could not be happier and more pleased to see his good friend on the bench." Ward was appointed as one of the last official acts of outgoing Gov. John J. McKeithen.

Judge Bagert said Ward will be a "young, vigorous and intellectual addition to the court."

City Attorney Blake Arata, representing Mayor Moon Landrieu, cited Ward's work in his office where he had been serving as an assistant. Ward quit as first assistant DA in 1969 after a dispute with Garrison over a previous court appointment.

Ward said, "Public confidence in the judiciary must be restored . . . I want to be a judge all of us will be proud of."

Watching Ward take the oath were his wife and his parents, Mr. and Mrs. John Ward. The two Mrs. Wards were presented bouquets of roses by Master of Ceremonies Charles Elloie.

The affidavit also stated that Gervais cooperated with the IRS, the FBI and the Justice Department's Organized Crime Strike Force in the probe.

THE JUSTICE Department has said Gervais was the conduit through which Callery made payments from pinball operators to Garrison which ranged from \$2,000 to \$3,000 on a bi-monthly basis.

Gallinghouse has charged that last June 29 Marks delivered \$2,000 to Gervais who in turn handed \$1,000 in marked bills to the district attorney. The arrests followed that transaction.

Maximum penalty on conviction for illegal gambling is five years in prison and a \$20,000 fine. The same maximum penalties apply for conviction of obstructing law enforcement, and interstate travel to aid racketeering.

Conviction on the conspiracy could bring a five year jail term and a \$10,000 fine.