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NEW ORLEANS

Indictment of Garrison Upheld by Federal Judge

U.S. Dist. Court Judge Edward J. Boyle Sr. here yesterday rejected a defense motion to dismiss an indictment charging Dist. Atty. Jim Garrison with filing false income tax returns.

Defense attorneys claimed that pre-indictment publicity could have prejudiced the grand jury which was investigating the case.

"Merely citing the publicity falls far short of establishing that the grand jury here was, in fact, prejudiced against

him," Judge Boyle said.

"Specific showing of prejudice is necessary to vitiate the indictment and no such showing has been made."

The judge also said that Garrison was responsible for some of the publicity.

The indictment charged Garrison reported a total income of \$35,670 for 1965, \$28,984 for 1966 and \$17,984 for 1967 when in each he allegedly received substantially more.

Marcello-O'Hara Bribe Is Alleged

An alleged \$5,000 bribe paid by Jefferson Parish rackets figure Carlos Marcello to former Criminal Dist. Court Judge Malcolm V. O'Hara was disclosed Thursday.

The reference was contained in a copy of a June 29 letter from John Wall, head of the federal Organized Crime Strike Force in New Orleans, to Atty. Gen. William J. Guste Jr. Copies of the letter were distributed to newsmen by the strike force after Wall appeared before the Orleans Parish Grand Jury.

The jury is investigating transcripts of tape recorded conversations by Pershing Gervais, a former government informer, with Criminal Dist. Court Judges Jerome Winsberg and Charles R. Ward Jr. and involving O'Hara.

Winsberg and Ward had not taken office when the conversations took place. O'Hara now is retired on disability.

Wall appeared before the grand jury by invitation. Guste also was in the jury room, the first time in state history that an attorney general had been allowed to attend a grand jury session.

Guste said his visit was made possible by a state law which went into effect on Wednesday. He also said that he was personally supervising the investigation.

Wall's letter which was sent

to the grand jury with the recorded conversations described the material only as "a portion of my memorandum dated Sept. 2, 1970 regarding a \$5,000 bribe by Carlos Marcello, through Gervais, to Orleans Parish Criminal District Court Judge Malcolm O'Hara to thwart or delay the extradition of J. Dalton Smith to California to face state charges there."

Smith, of New Orleans, voluntarily appeared in Los Angeles in 1970 to face theft and conspiracy charges involving a Los Angeles office of a nationwide brokerage firm. He had fought extradition from Louisiana for two years.

Smith and three other men were indicted in connection with an alleged plot to steal \$382,000 from the Los Angeles office of Paine, Webber, Jackson and Curtis in December 1967.