

3 Bard Students Register As Result Of Court Ruling

By MARILYN STONE
Journal Staff Writer

Three Bard College students registered to vote in Dutchess County Wednesday afternoon as a result of a decision of Supreme Court Justice Joseph F. Gagliardi who was presiding here.

The students registered at the offices of the Dutchess County Board of Elections and will be able to vote in a Town of Red Hook district Nov. 2, according to Laura Hodos, one of the two county election commissioners.

The Mid-Hudson Chapter of the New York Civil Liberties Union, which represented the three female students, had accused the county board of elections and the two election commissioners of refusing to "properly consider the voter registration applications" of the three students.

The issue of registering college students who may live in a dormitory on campus, for example, in the district where the college is located,

has been raised in various parts of New York state before, including the mid-Hudson region.

After a hearing on Wednesday Justice Gagliardi decided these three students had satisfied their burden of proving they were bona fide residents of Dutchess County, according to Stephen M. Lipton, a cooperating attorney for the civil liberties union chapter.

The justice refused, however, to declare the whole pattern and practice of the county board of elections in allegedly not considering registration applications of college students who come here from other areas, Lipton explained.

James M. Fedorchak, chief assistant county attorney, who represented Mrs. Hodos, Albert L. Hecht and the county board of elections, said, "we didn't believe the law was on their side" nor that they intended to make Bard their basic residence.

Although Justice Gagliardi

dismissed the portion of the petition which sought a declaration concerning the practices of the county elections board, he did so without prejudice which means the civil liberties union could seek this type of relief in another court action.

Lipton said whether or not the group takes any further action in this respect will depend on future actions of the board of elections and the interest of students.

The chapter is already aware of several Vassar College students who were interested in being included in the case which was why the students shouldn't be allowed to register, according to James H. Phillips, the chapter's chairperson.

The Vassar students were not included because their interest was not known in time to prepare the legal papers with respect to them, Lipton said.

Justice Gagliardi, who cited several preceding court cases, quoted from a U. S. Supreme Court case, Carrington

v. Rash in which the court said, "fencing out" from the franchise a sector of the population because of the way they may vote is constitutionally impermissible."

In November 1973 the Ulster County Board of Elections challenged the registrations of more than 20 State University College at New Paltz students and were successful in preventing 15 of them from voting that year in New Paltz.

They sought relief both in state court and in federal court and reportedly the students were successful in having their registrations reinstated by a federal judge in an unreported decision.

Lipton said the last federal ruling on Section 151 of the state election law, which is the law under which these decisions are made, was that the law was not unconstitutional in itself.

However, the federal courts said in substance they would "wait and see"

how the state courts interpret this law.

Justice Gagliardi was doing just that, interpreting the law to these three particular individuals' cases in his decision, Lipton pointed out.

A dominant issue is the degree of permanency of the students residency.

These students are physically present here, presently intend to remain here for an indefinite period of time and have no intention to return to their former residences, Lipton said.

He said the board of elections was saying, do you plan to stay here forever, although it isn't clear whether these three students got as far as to be asked that question in Dutchess County this year.

Phillips commended the perseverance and civic-mindedness of these students, pointing out that a number of cases came to the chapter's attention where dormitory residents were flatly rejected in their attempts to register to vote.