

# Gervais to testify in bribery case

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Former government informer Pershing Gervais was to take the witness stand late today in the pinball bribery trial of Dist. Atty. Jim Garrison and two others.

In a surprise move, Gervais was to testify for the prosecution after Garrison rested his defense.

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Dist. Atty. Jim Garrison's defense in his federal pinball bribery trial came to a mysterious halt today with the controversial DA shutting off his line of witnesses and allowing a co-defendant to start his case.

Garrison, who had called a long line of witnesses for the past several days, called nobody during the morning session of the U.S. District Court trial today and the attorney for Robert Nims began calling Nims' witnesses.

There was speculation Garrison was awaiting the arrival of out-of-town witnesses before proceeding as his own defense lawyer in the case, now in its fifth week.

There was one report controversial government informer Pershing O. Gervais would take the stand today as a defense witness. It is on more than 50 tape recorded conversations between Gervais and various defendants that the government has based most of its case.

If Gervais were to take the stand it would come as a major surprise. It had been widely believed that neither side would call Gervais, a former close friend of Garrison and former chief assistant to the district attorney.

Garrison and pinball executives Robert Nims and John Aruns Callery are being tried on a charge of conspiracy to obstruct law enforcement by giving and taking bribes to protect pinball gambling. Ten persons were indicted in the case but three have pleaded guilty and four have been granted separate trials.

Today's session has been devoted to testimony of witnesses called by Louis C. Lacour, Nims' defense attorney.

Two of the witnesses testified Nims was in Point Clear, Ala., at a meeting of music box distributors on Oct. 4, 1970.

It is on this date that former police Capt. Frederic A. Soule Sr., one of those who has pleaded guilty, testified he met Nims and Callery in the parking lot of a Gentilly shopping center.

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Last week members of Callery's family testified Callery was in Europe at the time and could not have met Soule in the parking lot.

Garrison spent yesterday in an attempt to discredit Gervais tapes introduced by the government which rested its case last week without calling Gervais.

Garrison's tape expert testified one of the tapes is a "fraudulent fabrication."

Dr. Louis Gerstman, a New York psychologist who also claims to be an authority on tapes, said he is "99.9 per cent certain" a tape he analyzed was spliced, placing statements out of context. Gerstman at first was disqualified as a witness but later in the day was reinstated.

How much weight the jury will attach to Gerstman's testimony may be the factor in deciding Garrison's guilt or innocence. Without the tapes, the government has a weak case against the DA.

Garrison purportedly received bribe money from Gervais during the course of the taped conversations.

Gerstman's testimony came as Garrison appeared to be nearing the end of his own defense.

Today's trial session was delayed nearly an hour while government and defense attorneys met with U.S. Dist. Court Judge Herbert W. Christenberry in the judge's chambers.

When that session was over Lacour called Walter I. Kahn, collector of revenue for the city, to the stand.

Kahn testified that during 1971 and 1972 none of Nims' interests applied for permits for pinball machines. Nims has contended he was getting out of the pinball business at the time of his arrest in June of 1971.

Kahn said that during 1971 and 1972, Pierce Amusement Co. was issued 15 pinball machine permits.

Judge Christenberry has said he hopes the jury of nine men and three women will get the case before the weekend. Today is the 19th trial day.

Gerstman's testimony was a direct contradiction of the government's tape expert, Lt. Ernest Nash of the Michigan State Police. Nash said he examined the tapes carefully and found they were not altered in any fashion.

Nash also testified it is impossible to splice tapes without the alteration being detected.

Gerstman, a professor of speech and hearing sciences at City University of New York, said it is possible to detect altering of tapes when it is not done by an expert. He said he found tampering in the one tape he examined.

Gerstman said he examined only less than one-fourth of the tape and found three instances of alteration. No further examination was made because he was satisfied with those findings that the tape was "fraudulent," he said.

The tape contains a Feb. 25, 1971, conversation between Garrison and Gervais in which Gervais allegedly gives the DA \$1,000 in bribe money.

GERSTMAN, WHO said he trained himself to analyze tapes, testified he examined a copy of government tape, furnished him by Garrison's former attorney, with an oscilloscope.

"It is a fabrication of some prior tapes spliced together to produce a fabrication," he said. The result, he testified, is a conversation that does not appear in the order in which it was originally recorded.

Gerstman said he was able to detect splicing in one instance by "clicks" that appear to be a tape recorder shutting on and off.

In the other two instances, he said, manipulation of the conversation is detectable by changes in noise level and by variations in sound frequencies and the rate of conversation. He said he correlated these factors with an "interruption in content."

Gerstman said he examined the orig-

inal tape last Friday and confirmed splicing in it.

Judge Christenberry asked Gerstman if the noise level would vary from room to room. Gerstman said it would, but it would not vary from voice to voice.

Later, on cross-examination, Gerstman admitted that movement of the microphone could have generated clicking noises. But he said, "This was not the basis for my conclusion."

Gervais was wearing a microphone and transmitter concealed in his clothing when the conversation was taped in Garrison's home. Agents of the Internal Revenue Service, stationed in automobiles around the residence, monitored and recorded it.

All IRS agents have testified the tapes were unaltered.

Eric Gisleson, acting chief of the Organized Crime Strike Force in New Orleans, cross-examined Gerstman at length and then asked him to play the tape and point out the alterations.

"I WANT the jury to hear them and to know what weight, if any, it will give to this expert," said Gisleson.

The tape was played and afterwards Gerstman again explained his theories of "clicks," "noise level," "voice frequently" and "band frequency."

The particular tape which Gerstman examined is the most difficult to understand of all 55 tapes the government introduced. The conversation is marred in several instances by background noise and static.

Steven Bordelon, a policeman and an investigator for Garrison, testified he made the copy of the tape which Gerstman received in New York. He said he "positively did not" alter it.

A gap in the conversation was found on Gerstman's copy that was not heard in the original tape.

THE FIRST point on the tape which Gerstman claimed was inserted from another tape is after Gervais enters the Garrison residence and begins talking.

This is the portion Gerstman claimed is inserted:

Gervais: "A pretty girl, just like a pretty tune, a pretty girl is like a melody . . . you're in the way."

Garrison: "You know . . . they did it by TAC, going through TAC, the problem is—but they will not be recognized by anybody (profanity) because they don't want responsibility."

Gervais: "A pretty girl. There's lots of things you change in an operation over there."

There is laughter at this point and Gervais talks to Liz Garrison, the DA's wife. TAC, which appears in

the transcript, is "tact" and not TAC Amusement Co., Gerstman claimed.

IN THE second instance where Gerstman claimed the tape is spliced, Garrison and Gervais have been talking about their illnesses.

Garrison: "You know that thing I had?"

Gervais: "That ain't nothing (profanity). You got it all figured out."

Garrison: "You know what that is. You know what this is?"

Gervais: "Huh?"

At this point the conversation was picked up from another tape, Gerstman said.

Garrison: "That little box. You know. That you open with a special key and you pull. What do you call it, that, uh, that they keep in a bank usually?"

Gervais: "Safety deposit box key?"

Garrison: "Yeah, your safety deposit box. You just happen to keep it in your chest, that's all."

This is the end of the portion Gerstman said was spliced.

THE CONVERSATION continues with Gervais laughing and saying: I'm going to tell you, son of a gun. I no sooner get over one and I got and when I get it—this kind of infection—it's penumonitis (phonetic), I feel like I'm gonna die."

Garrison: "I never . . ."

Gervais: "Listen, before she (Mrs. Garrison) comes, Callery told you there was people talking to me, huh?"

Garrison: "Yeah."

Gervais: "Okay."

Garrison cannot be understood.

Gervais: "Heah, they come . . . Boasberg came to see me."

This was apparent reference to pinball dealer Louis M. Boasberg, who pleaded guilty in the case.

AT THIS POINT, Gerstman said, there is a pause and another splicing of the tape.

Gervais: "Right, well, not me, they, they pursued me, I didn't, uh, solicit none of this (profanity)."

Garrison: "What is, uh, a friend can do anything, uh, when they, they (inaudible) gone wild and so forth, uh, was not entrapment or anything. On the other hand, if we're being taken care of, then, uh, I'll take and look and . . ."

Gervais: "Well."

The insert ends here, Gerstman said.

Later in the conversation, Garrison talks about going to the governor and about his influence in the Irish Channel and the Ninth Ward. Gervais also allegedly hands Garrison \$1,000 and Garrison snatches it from Gervais' hand.

Garrison asked Gerstman if it were possible to insert words in a tape in

the same fashion as sentences allegedly were inserted. Gerstman said it was.

The DA then asked him if it would have been possible to insert the words from his conversation, "We're being taken care of." Before Garrison could answer, the government objected to the broad nature of the question and the judge sustained.

GARRISON never asked Gerstman if he thought those words actually were implanted in the conversation.

Gerstman testified on cross-examination that he only examined a small portion of one tape because that was all he was asked to analyze. He said he made notes on other segments, but left them in New York "because I didn't have time to clean out my laboratory."