

# VOICE OF GARRISON SAID SPLICED INTO RECORDING

## Professor Testifies in Bribe Trial

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and DON HUGHES

Dist. Atty. Jim Garrison's star defense witness thus far in his federal bribery conspiracy trial testified Tuesday that he is "99.9 per cent certain" that the DA's voice had been spliced into portions of a tape recording said by the prosecution to have been made with the help of government informant Pershing Gervais.

Asserting that Garrison's voice had been mechanically injected into a contiguous recording of Gervais' voice was Dr. Louis Gerstman, a professor of speech and hearing sciences at City College of the City University of New York.

Dr. Gerstman, who was certified by U.S. District Judge Herbert W. Christenberry's court Friday over the strenuous objections of the prosecution, was on the witness stand much of the day Tuesday as Garrison was apparently nearing the conclusion of his own defense.

He has been conducting his own arguments since last week when he dismissed his two attorneys Louis B. Merhige and Fred Barnett, due to differing philosophies over his defense.

Dr. Gerstman, who had studied only one of the more than 50 government-made tape recordings between Gervais and the 10 persons who were arrested June 30, 1971, on charges of making or accepting illegal pinball pay-offs, Tuesday labeled that tape "a fraudulent fabrication" based on his analysis of the tape.

### PRIOR TAPES

Asked about the original tape from which his copy had been

made) that he listened to here Friday, the speech professor branded it as a fabrication of prior tapes that had been spliced together, adding that he had noted "technical disparities" between the voices of Garrison and Gervais.

The tape in question was one said by the government to have been made on Feb. 25, 1971, by means of a body transmitter hidden inside Gervais' clothing as he visited Garrison's home.

During that visit, as well as other similar visits, Geravis allegedly gave the DA \$1,000 in bribe money which he had received from the local pinball industry.

Dr. Gerstman admitted that Conf. in Sec. 1, Page 12, Col. 1

he had listened to only about a fourth of the government's original tape, explaining that he was able to determine from that much that the tape had been spliced.

He cited what he said were three specific instances of tape alteration within the first 12 pages of a printed transcript which the government had provided with each of the scores of tapes as they were played earlier during the month-old trial.

The professor, who had earlier in the day been called "incompetent" as a tape expert by U.S. Attorney Gerald J. Gallinghouse, said that in one part of the conversation the utterances "of the man labeled on the transcript as Garrison" seemed to be out of context to the conversation taking place, and in other parts the noise level differences were inconsistent.

As another example, Gerstman said that the word "Tac" mentioned twice by Garrison was actually the word "tact." ("Tac" would have referred either to TAC Amusement Co. which at that time operated gambling-type pinball ma-

chines, or John "Tac" Elms Jr., one of the firm's partners.)

Gerstman also said that at one part of the tape, he distinguished switching noises, or clicks, similar to those made by the starting and stopping of a tape recorder.

He later admitted under cross-examination by Eric Gislison, chief of the Organized Crime Strike Force, that there were many various clicking sounds audible throughout the tape which could have been caused by friction of the hidden microphone against Gervais' clothing.

Dr. Gerstman's testimony on the tape being a fraud was a direct contradiction of the government's voice expert, Lt. Ernest Nash of the Michigan State Police, who stated under oath earlier in the trial that he had performed spectographic (voice print) analysis on all of the tapes recorded by the Internal Revenue Service here with Gervais' cooperation, and found them to have been true and unaltered.

### MONITORED TAPES

Additionally, a number of IRS agents who assisted in recording the tapes said they also had simultaneously monitored the conversations as they occurred, and the tapes contained what they had heard at the time of recording.

It is indeed possible, Dr. Gerstman said Tuesday, for an expert using the proper equipment to alter a tape so that the tampering cannot be detected, even by another expert, including himself.

He termed the tape sent to him for analysis as "a very inexperienced cutting and splicing job."

Asked by Judge Christenberry if the government employs such experts, Dr. Gerstman replied: "I would hope not, your honor. I trust my government, your honor."

Under questioning from Gislison, Dr. Gerstman conceded that he had devoted less than 10 per cent of his time over the past five years to examining

magnetic tapes as to their integrity, as was his assignment in this instance.

He said also, as the government continued to hammer away at the professor's competence as a voice expert, that he had previously analyzed only one tape recorded by means of a body transmitter, and did not testify in court on that matter.

Re-direct questioning from Garrison resulted in Dr. Gerstman's labeling magnetic tapes as "manifestly unreliable as a record of past events," explaining that phrases or even individual words on tapes can be altered and placed entirely out of context or deleted altogether.

### EARLIER MOVE

Earlier in the day, Judge Christenberry had sustained a government motion that Dr. Gerstman not be allowed to continue testimony as an expert witness, but a settlement was obviously reached between the court and counsel during the lunch recess as the professor was returned to the stand for most of the afternoon.

The only other witness called by Garrison Tuesday afternoon was Steve Bordelon — a New Orleans policeman assigned to the DA's staff as an investigator — who testified that it was he who had made the copy of the Garrison-Gervais tape and sent it — along with a transcript of the tape — to Dr. Gerstman some two weeks ago.

Bordelon was called to the stand to help clear up the question of a brief period of dead air, or a silent space, found on Gerstman's copy Friday that had not been on the government's original tape.

Bordelon said "positively not" when asked if he had altered the tape in any way.

The matter of the silent spot on the Gerstman tape was later dropped, apparently as being unimportant to the case.

The afternoon's only other witness was Mrs. Charlotte Simoncioni, a former secretary of Robert E. Nims who is a co-defendant in the trial along with Garrison and John Aruns Cal-

lery, a former partner in New Orleans Novelty Co.

Nims is owner of REN Enterprises of which his Lucky Coin Machine Co. is a subsidiary.

#### INVOICE IDENTIFIED

Mrs. Simoncioni identified an invoice given her by Louis O. LaCour, Nims' attorney, as being a document transferring all of Lucky Coin's bingo, or gambling-type pinball machines, to AMA Distributors on Dec. 21, 1970.

LaCour was attempting to show that Nims was no longer involved in handling gambling-type pinball machines after that time.

Seven others were arrested and indicted on the bribery conspiracy charge along with Garrison, Nims and Callery.

They include former police Capt. Frederick Soule Sr.; former police Sgt. Robert Frey; Louis Boasberg, owner of New Orleans Novelty; Harby Marks Jr., a New Orleans Novelty Co. employe; John Elms Jr. and Lawrence Lagarde Sr., both partners in TAC Amusement Co., and John Elmo Pierce, owner of Pierce Amusement Co.

These seven have all either pleaded guilty or had their cases severed, and all have testified as government witnesses in the current trial.

Of Tuesday's witnesses, Gerstman was the most colorful and brought about the most controversy from the government's point of view.

Gerstman began his testimony during the morning session by saying he examined the tape by performing a "physical analysis" and a "content analysis."

Asked by Gisleon why he chose to listen to only the portion which was transcribed as the first 12 pages of the original tape last Friday afternoon after he originally appeared in court, Gerstman replied, "In the first 12 pages there is already clear evidence that the tape is a fraudulent fabrication."

#### STATEMENT STRICKEN

The judge ordered that statement stricken from the record and admonished Gerstman for making it.

Gisleon asked whether there wasn't an obvious break in the copy of the original tape which Gerstman examined at the request of Garrison.

"Not obvious," he replied.

"Word for word, are they (the copy and the original) identical?" Gisleon asked.

"I would not say word for word," Gerstman said.

Gerstman said he couldn't say whether part of a statement by Gervais was missing from the copy he examined. He said he wasn't interested in the content, but only "listening for an interrelation between certain content and noise levels."

Judge Christenberry then asked, "If you didn't listen to the content how do you know they (the copy and original) were identical. Anybody could tell if something were missing if they listened to both tapes."

Gisleon asked, "If all the words were the same how could they have been altered?"

"You brought that up, sir," Gerstman replied.

Then Gisleon told the judge the government "strenuously objects" to Gerstman testifying. "It's clear that he's not competent to state" that the copy from which he made his analysis was identical to the original tape recording.

#### ERRORS CITED

"We find grave problems and errors in it (the copy),"

Gisleon said. "Until he can examine the original scientifically he should not testify."

Gisleon then said the copy which Gerstman examined "does not contain words that are shown on the transcript and the original tape. We submit that the copy of the tape examined by Mr. Gerstman was altered."

Gallinghouse said, "This witness is not competent. We move to strike any statements made by Mr. Gerstman because of his demonstrated incompetence."

The judge, in answer to defense attorney's objections, ordered Gallinghouse's statement removed from the record as well as statements by Gerstman.

Then Judge Christenberry remarked that Gerstman had said that both tapes "were virtually identical as to content then said they were virtually word for word and then said they were not."

In order to determine the steps taken to make the copy Gerstman examined, Barnett took the stand.

Barnett said that he listened to the copy Gerstman had examined in the presence of government agents and prosecutors Friday afternoon and that it was apparent the government officials considered the tape was flawed. He said at one point

they wanted to replay a part of the tape and it became entangled. He said that there may be some mechanical damage to the tape now but "as far as I know it wasn't altered before."

When asked who made the copy Gerstman examined, Barnett said Steve Bordelon. (Numerous members of the district attorney's staff who are on the public payroll have admitted working on the case for Garrison.)

Barnett said in his opinion there was no difference between the tape Gerstman analyzed and the original tape.

#### TAPE A COPY

Under cross-examination by Gisleon, Barnett admitted that the tape Gerstman checked was "a copy of a copy of a copy," as Gisleon put it. "I would say it's a fourth generation tape," Barnett replied.

Barnett agreed with a question by Gisleon that the copy which Gerstman examined jammed when agents were examining it Friday afternoon when Gisleon "discovered something he wanted to hear."

Barnett admitted that any number of persons could have had access to the copy from which Gerstman's copy was made during the almost one year it had been in existence.

Gisleon told the judge following Barnett's testimony that "there is a difference in the tapes. I can so testify."

Garrison asked, "Why didn't you object Friday (when the participants were listening to the tapes together)."

"We do not try our case in an office. We prefer to try our case in court," Gisleon replied.

Garrison then said that Gerstman had said the tapes were the same.

"He also said he didn't listen to the words," Gisleon retorted.

#### AGENT TESTIFIES

Then the government put Internal Revenue Service Special Agent Edward Martin on the stand. Martin had been party to the tape-listening session Friday.

Martin testified that during the second statement by Gervais on page 12 of the transcript "there was a click — the sound of a recorder being turned off — then complete silence. It jammed, but then we replayed it and we heard the click again."

He read the statement by Gervais: "But, wait, March,

he'll bring another thousand for March and April, see — only to keep the doors open — until what he's scared of is the legislature in April, if they don't knock them out then they'll build up, they will be in the best position they ever been in their life, cause they'll be the only two in business."

Martin said the part which was missing after the click was, "they will be in the best position they ever been in their life, cause they'll be the only two in business."

According to the transcript, Gervais was referring to Boasberg and Elms. Gervais was telling Garrison they were the only two pinball owners still operating following a federal government crackdown.

Martin said the tape malfunction "did not cause the silent part in the tape." He said it was there before and after the jam.

Other witnesses testifying Tuesday morning were Edward Ware, the district attorney of Rapides Parish and the president of the Louisiana District Attorney's Association, who said that he had never prosecuted the owners of pinball machines. In fact, he said, his office had prosecuted only one case of pinball gambling. Garrison has been attempting to show the difficulty of prosecuting pinball owners because of the limitations of state law.

Another witness testifying in the morning was Edward Ware.

Also John Volz, Garrison's chief assistant, testified to introduce annual reports to the state attorney general from his office.

The trial will resume at 10 a.m. Wednesday.