

9/15/72 Jim, Today's Post's "Two U.S. Aides Are Accused of Perjury" story may seem far out to most reporters and lawyers, but Hirschkopf is absolutely right I would hope will make an issue of this, as I asked Bud to in the spectro suit and as I sought to in the clothing suit. As I remember it, this is Bud's client H represents. So, if you can and if he is interested in other cases, there are several on file in federal court in D.C. There is this spectro case, the extradition case, where the liar was the Attorney General himself and I am pretty certain the most extreme case is the clothing suit. In all these cases what H might find relevant is the Department's filings. And in two cases there is a prima facie case that the perjury was suborned by the U.S. Attorney who either knew what he was presenting was perjurious or should have. This kind of thing is much too common and never reported, never protested by the bar, so I do hope H will make the most of it. Unless you can't find it, you have a complete file on the clothing suit. Offer the affidavits to him. If he finds relevance and uses, it might have a good effect on such as Gesell. And the papers. And the subject. Who knows, it might even help his/Bud's client... ~~Walter~~ Meyer, the reporter, is the one the Post sent to my extradition suit press conference. He has the Kleindiest correspondence, unless he threw it away. He doesn't know I know it, but he wrote a column and it was killed. So he might be a good one for H to offer such things to, since they can all be found in the office of the clerk of the court. That is, the same court. I wrote one of the judges, Gesell or Bazelon, that either my charges were actionable or these crimes had been committed, perjury and subornation being crimes. Neither did anything to me. What I am really saying is that the judges know this is S.O.P. for the government and do nothing, so with this kind of client and case, I do hope H is prepared to push, for his other clients and for others not (yet?) his clients. H should, from his past, be tempted to twist a few judges and U.S. Attorneys. Hope so. HW

U.S. Aides Accused of Perjury

AGENT, From C1

surreptitious interception of oral communications."

Bast is a private investigator who also operates the Redex Corporation, which sells electronic equipment. The indictment of Bast grew out of a search of his office at 1404 New York Ave. NW, on Jan. 10 by Daniel C. Mahan, an FBI agent.

Mahan had obtained a search warrant from a U.S. magistrate on Jan. 7 after submitting an affidavit reporting that an informant of the FBI, Robert C. Fitzgerald, of Gardena, Calif., had received advertisements from Bast concerning a pocket-size tape recorder. The brochure says that the tape recorder "secretly tapes a conversation, interview, conference or lecture in your shirt pocket..."

Mahan's affidavit also stated that Fitzgerald, described as the president of an electronics firm, had a telephone conversation with Bast on Dec. 21. "In that phone call," Mahan's affidavit said, "Bast refused to discuss the legality or illegality of the afore-mentioned tape recorder for fear that his telephone was tapped."

In court yesterday, Hirschkop told U.S. District Court Judge John Lewis Smith Jr. that Mahan's affidavit was a "gross distortion" of the facts and that "a government agent has committed perjury."

Hirschkop produced two other FBI documents that he said showed Mahan and assistant U.S. Attorney John E. Drury had "made a conscious effort to misrepresent the facts before the U.S. magistrate in order to obtain a search warrant."

The first document, a "Nitel" or night telegram, from the Los Angeles field office of the FBI to the Washington field office states at one point that "source (Fitzgerald) indicated he wanted to design voice-activated re-

lay for the recorder and asked if Bast knew if this had been done before or would work. Bast said no and added that the only use for this would be if the recorder were to be dropped (secretly placed) someplace and that this would be illegal."

The last paragraph of the Nitel, sent Dec. 21, said that Bast did not want to discuss the intent "and/or purpose of the recorder and specifically mentioned that either his telephone or source's telephone could be tapped."

In fact, Fitzgerald was recording the entire conversation—a violation of California law, according to Hirschkop.

A fuller account of the conversation was sent from the Los Angeles office to the Washington FBI office on Jan. 10—three days after the search warrant was obtained. In that message, Bast is reported as saying that a voice-activated relay, which turns the recorder on when someone speaks and off when conversation ends, would be useful only if "the recorder were to be 'dropped' some place and advised that this would be illegal."

The report, dated Dec. 28, said that Bast "indicated the recorder was designed as a pocket recorder and was sold by him strictly to be used by a person carrying it in his pocket. Bast stated he did not desire to discuss with customers the use to which they actually put the recorder."

On the basis of the two FBI documents, stating that Bast had advised Fitzgerald that it would be illegal to modify the recorder, Hirschkop branded Mahan's affidavit a "purposeful twisting" of the facts by asserting "Bast refused to discuss the legality or illegality of the aforementioned tape recorder..."

Assistant U.S. Attorney Guy H. Cunningham III replied

that the government disputed that the affidavit contained "willful perjury." Assistant U.S. Attorney Harold J. Sullivan, chief of the major crimes unit, also appeared briefly to tell Smith he wanted to enter a strenuous objection to Hirschkop's charge.

Drury commented later that Hirschkop's statements were completely untrue. Mahan, who was not called to testify but still may be at subsequent hearings, declined comment.

Fitzgerald was killed Feb. 8 in an incident apparently unrelated to Bast's case.

Mahan's affidavit also asserted that "another governmental agency, which prefers to remain anonymous," had informed the FBI that Bast sold equipment to a "Syrian-backed Arab commando organization." The equipment, Mahan said, included miniature radio transmitter concealed in cigarette packets, miniature receivers and tape recorders "in attache case," infrared binoculars and infrared monoculars with infrared light projectors.

Bast denied selling this equipment. "Of course I've sold things to Arab countries," Bast told a reporter. "Not what they said I sold in the indictment."

Bast said the case against him was an "absolute frame" because "I've been a thorn in the side of the FBI for years." Bast added that whenever he sells equipment, he includes a statement that the equipment is to be used with one party being a party to the conversation and that any other use is illegal.

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**2 U.S. Aides
Are Accused
Of Perjury**

By Lawrence Meyer
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A lawyer defending a private detective charged with illegally advertising and selling electronic equipment yesterday accused an FBI agent and an assistant U.S. attorney of obtaining a search warrant last committing perjury in order January.

The perjury charge, made by Philip J. Hirschkop, was promptly denied in court by two other assistant U.S. attorneys. However, the hearing provided a fascinating glimpse into how the FBI conducted its investigation in this case.

Hirschkop's client, Richard Lee Bast, was indicted Feb. 23 for advertising and mailing electronic equipment to officials of two foreign countries and for possession of electronic equipment "primarily useful for the purpose of the

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