

## Informer Testifies F.B.I. Had Him

By DONALD JANSON  
Special to The New York Times

CAMDEN, April 10—Robert W. Hardy, a witness in the "Camden 28" case, testified today that the Federal Bureau of Investigation had used him as an agent provocateur to make sure the defendants revived and carried out their plans to destroy draft files here.

Seventeen of the 28 accused opponents of the war in Vietnam are on trial in Federal District Court on charges of breaking into the Federal building here and ripping up files on Aug. 22, 1971. The cases of the 11 others arrested will be handled later.

Frank Donner, a New York City lawyer who has made a study of the use of informers by the F.B.I., said in an interview in the courtroom that this was the first time in any case in United States history that a Government informer had been called as a witness by the defense rather than the Government.

The Government rested its case last week without calling Mr. Hardy, a general contractor in Camden.

Mr. Hardy testified today

that he did not agree with the defendants' "philosophy" that civil disobedience or lawbreaking was a justifiable means of protesting the war in Vietnam.

### Dealings With F.B.I. Cited

He said that when Michael Giocondo of Camden, a friend who was one of the protesters, had told him of plans to raid the draft board office, he had gone to the F.B.I. and had agreed to the agency's proposal that he meet regularly with the group and report regularly on their plans.

In return, he said, the F.B.I. agreed to arrest the group on charges of conspiracy before any aid was actually made, and that it said none of his friends in the group would wind up in jail.

The contractor said the two agents he had dealt with, Michael M. Ryman and Terrence P. Neist, had agreed that the plotters were "obviously not criminals" but "just misguided." Those on trial include priests, young women and other Roman Catholics opposed to the draft.

Mr. Hardy said he had become upset when the F.B.I. had

not keep a pledge to him to arrest the group during a "dry run" a week before the actual raid.

"The next day I asked Mike Ryman what had happened," he said, "and he told me, 'Someone in the little White House in California decided the arrests were not to be made that night.'"

### Two Versions of Policy

F.B.I. agents testifying for the Government had said the arrests had not been made until after draft records actually were destroyed because of the need to find all the conspirators before arresting any and to guarantee the safety of the 80 agents on hand to make the arrests.

Mr. Hardy testified, on the other hand, that the policy actually followed by the agency in making the arrests had been first to "make sure the defendants commit as many crimes as possible and destroy draft files."

The defense contends the F.B.I., with sally reports on the planning for two months before the event, could easily have stopped the action short of

destruction of files but preferred to see the raid carried out in order to punish the group and thereby repress the anti-war movement.

The defense also maintains that use of an agent provocateur to "create a crime is illegal. The agent in charge of the case, Joseph Ziel, testified earlier that "as standard procedure," the F.B.I. permitted informants to "be active within the group that he is working with" to the point of supplying expertise and supplies, "as long as there is nothing furnished which would endanger the life of anybody, such as explosives, fire arms, weapons."

### Tools Supplied

The United States Supreme Court has not yet ruled on how far an undercover agent can go in assisting or provoking anti-war or other "political actions."

Mr. Hardy testified that he had supplied 90 per cent of the burglary tools the defendants needed to break into the draft board office on the fifth floor of the Federal Building. He said that he had done so with F.B.I. approval and that the F.B.I. had reimbursed him for the cost of each item.

As they were placed on the green carpet in front of the witness box by David Kairys, a defense attorney, Mr. Hardy identified chisels, pry bars, crowbars, bolt cutters, screwdrivers, utility knives, hammers, glass cutters, walkie-talkies, crills and drill bits, and other items he had provided for the break-in.

He said he had taught the group how to use the tools, how to get to the fifth floor by using his ladder, how to break in, and how to carry out the raid with the aid of a schematic drawing of the office that he had helped to prepare after he used a ruse to enter the draft board earlier for a look around.

"I provided the aid and strategy they needed to get into the building," Mr. Hardy testified. "This raid on the draft board would not have happened without me and the F.B.I."

He said he had told the F.B.I. this "at least 15 times" before the raid was carried out.

### Revival of Plans

He said Mr. Giocondo and two other defendants had told him, at about the time he had first learned of the plans, that they were ready to give up plans for the raid because there was no way they knew of to get into the building and because they believed the F.B.I. had learned of their plans.

With the encouragement of

## Provoke Camden Draft File Raid

he F.B.I., Mr. Hardy said, he was able to revive the plans by supplying tools and experience.

Cross-examined by assistant United States John J. Barry, the witness said that he had received a total of \$7,500 from the F.B.I. for his information, burglary tools, for gasoline for the van he had supplied, and

for food for the plotters, many of whom had come from New York City, Boston, Washington and other cities.

During direct examination, Mr. Hardy said that he had agreed to serve the F.B.I. as "an undercover agent," but was dismayed to find he was being used instead as a "provocateur."

Following the arrests, he said, he decided to put on record "the truth as I knew it" and prepared an affidavit disclosing how he and the F.B.I. had functioned in the case. He gave the affidavit to the defense last year and the Government decided not to call him as a witness.