

NYTimes DEC 8 1973  
**Vesco's Extradition Refused by Bahamas**

Special to The New York Times

NASSAU, Bahamas, Dec. 7—Robert L. Vesco's month-long fight to stave off extradition to the United States ended successfully today when a Bahamian court ruled that the wire fraud charge on which the financier was indicted in New York was not an extraditable offense.

Even if wire fraud were covered by the extradition treaty of 1931, the United States has not produced sufficient evidence to warrant Mr. Vesco's surrender to the American authorities for trial, the Nigerian-born magistrate hearing the case ruled in a 31-page, 90-minute judgment.

Magistrate Emanuel Osadebay, responding to a defense submission that there was no case to answer, threw out the United States case without calling on Mr. Vesco to produce defense evidence.

The United States has no right of appeal against the decision, but the Bahamas Supreme Court could be asked to review it to insure that there was no miscarriage of justice. United States Attorney Paul Curran said no decision has been made on this.

Magistrate Osadebay ended his judgment with a warning that there could be abuse of the provision in extradition law for the production of affidavit evidence that was not subject to challenge in cross-examination.

He said he felt bound to mention the point because of a Miami Herald report quoting a Justice Department official, John Murphy, as saying that he was "committed 100 per cent" to winning Mr. Vesco's extradition to face fraud and conspiracy charges.

The treaty prohibits the trial of an extradited fugitive on any charge other than that for which he was extradited.

"Where certain state officials are committed 100 per cent to getting a person extradited," Magistrate Osadebay said, "those persons may breach the good faith" on which the treaty is based by "extorting evidence as depositions or concocting evidence in depositions in order to satisfy the requirements of the law, knowing that there is no means of putting those

Continued From Page 1, Col. 3

depositions to the test." After the ruling, the chief defense counsel, Eugene Dupuch, asserted that the prosecution's case was "woefully, pitifully, abysmally without virtue."

Mr. Vesco, who has been free on \$75,000 bond since his arrest by the Bahamian police on Nov. 6, was not in court for the judgment. Although his bond included a stipulation that he attend the hearings and although he had been present throughout presentation of the prosecution's case, his attorneys won permission for him to miss today's session for business reasons.

Mr. Vesco celebrated his 38th birthday on Tuesday.

A Federal grand jury indictment in New York on July 20 alleged that Mr. Vesco defrauded the International Controls Corporation of New Jersey of \$50,000 early last year and used the money as part payment for a block of Investors Overseas Services shares he was buying from a former I.O.S. director, C. Henry Buhl 3d.

#### Richardson Evidence

The prosecution's case relied heavily on affidavits by Mr. Buhl, Laurence D. Richardson, former I.C.C. president, and Robert Ost, a former accountant for International Controls.

Mr. Buhl's deposition stated that he agreed in December, 1971, in Geneva, Switzerland, to sell 375,000 I.O.S. shares to Mr. Vesco for \$140,000 and that he received a \$50,000 deposit by wire on Jan. 4 last year. A second Buhl affidavit, the existence of which was revealed by the defense, raised doubts of Mr. Buhl's credibility because, as Magistrate Osadebay noted in his ruling, the two were "contradictory."

Mr. Richardson, whose evi-

dence was tendered in support of the prosecution's assertion that the offense amounted to fraud by false pretenses under Bahamian law, testified that when asked by the board of directors in late 1972 to explain the payment to Mr. Buhl, Mr. Vesco gave four different versions, saying that the expenditure was legitimately made in the interests of I.C.C. The magistrate ruled that Mr. Richardson's testimony, in the absence of the minutes from the board meetings, was insufficient evidence.

Mr. Ost's affidavit supplied evidence that in January last year he was instructed by Richard Clay, an I.C.C. vice president, to have the Bank of America in San Francisco transfer \$50,000 from an International Controls account to Mr. Buhl's bank account in Geneva. The prosecution argued that the

court could infer that the instruction came originally from Mr. Vesco, then I.C.C. chairman and chief executive officer.

But Magistrate Osadebay pointed out that no evidence had been submitted to show that Mr. Clay did not himself have authority to disburse I.C.C. funds, and "I therefore cannot presume anything."

Mr. Vesco's extradition was also sought for allegedly aiding and abetting wire fraud.

"In this case," the magistrate said, "the prosecution denied that Richard Clay, who is said to have requested Robert Ost to send the \$50,000 to Buhl, committed any offense. They also denied that Robert

Ost, who sent the money, committed an offense.

"Then who in this case committed the offense which the accused is said to have aided and abetted? The Prosecution produced no evidence. How then can I hold ~~that~~ that sufficient evidence has been produced to show that the accused, Robert Vesco, aided and abetted?"

Continued on Page 24, Column 1