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Chicago D

THE

VOLUME LXXXX.—NO. 241 C (REG. U. S. PAT. OFFICE) COPYRIGHT 1931 BY THE CHICAGO TRIBUNE) THURSDAY, OCTOBER

PASTOR ACCU

FIVE WITNESSES LINK GANGSTER TO RICH PROFITS

Gaming House Clerk Testifies for U. S.

BY PHILIP KINSLEY.

(Pictures on back page.)

Five witnesses, one of them a Congregational minister and another a gambler of the Capone syndicate, took the witness stand in Federal Judge Wilkerson's courtroom yesterday as the curtain was lifted upon the income tax case against Al Capone which the United States government has been three years in building.

Through the Rev. Henry C. Hoover, an earnest young suburban pastor, and two other members of a ministerial and civic association which had been organized to drive Capone out of the western suburbs, the government attempted to establish Capone at [illegible] with the [illegible]

Gambler Tells of Profits.

And through L. A. Shumway, a former employé of the underground gambling houses of Capone, which were driven from one place to open in another, the prosecution showed profits to the house which Capone owned of $300,250 in 1924, $117,400 in 1925, and $170,011 during four months of 1926. The books of the gambling house were introduced as evidence.

The Rev. Mr. Hoover is ruddy of complexion, with a thin face and a long, sharp nose, surmounted by glasses. He testified slowly and deliberately, apparently weighing each answer before delivering it.

Capone and the young minister came face to face during a raid on the place at 4848 West 22d street on the afternoon of the third Saturday in May, 1925, the day of the Kentucky Derby. The association of church members and property owners had collected a posse of police and had entered the place with the purpose of wrecking it.

Place Reopened on Same Day.

They did so partially, but it was shown through another witness that it was only for a few hours, as the gamblers were doing business at the same stand later that afternoon. In the meantime several noses had been broken, including that of one witness who took the stand yesterday.

Capone's presence in the gambling house and his conversation were conducted with evidence for the government, as his lawyers went to [illegible] formally for arraignment.

The minister identified Capone in court, pointing him out as he sat behind his lawyers, Michael Ahern and Albert Fink. Capone smiled and enjoyed the evidence, frequently poking his lawyers in the back in amusement.

On the afternoon of the raid Capone evidently was roused from his slumbers at an unusual hour for him. His appearance was made in a pajama coat, trousers hastily pulled on. He had no shave. Two witnesses described his entry and swore that he said:

"I'm the owner of this place."

Describes Gang Chief's Plea.

The Rev. Mr. Hoover said that when Capone came in he followed the gangster to the office part of the gambling house and Capone said to him:

"Why don't you believe my word to me?"

After the minister had explained that he had no personal feeling against Capone, but was merely acting in the interests of civic righteousness, Capone said to him:

"This is the last raid you'll ever pull on me."

Chicago Daily News
10-8-31

U. S. Jury Hears Of Capone's 'Take' Told by Himself

Gang Chief Loses Fight to Bar Admissions to Tax Expert.

BARES FAILURE TO FILE

Alphonse Capone, on trial before Federal Judge James H. Wilkerson for evasion of the income tax, today received his first serious reverse when the judge admitted in evidence the record of his early negotiations for a compromise with the treasury department.

In this statement, which contains a biography of Capone compiled by Lawrence B. Mattingly, income-tax expert then representing the gangster, Capone outlines the founding of his alcohol syndicate late in 1925—an organization to which he contributed no capital and from which he derived an income of "not more than $20,000 in 1927 not more than $40,000 and in 1928 and 1929 not more than $100,000 a year."

Always in Debt, Claim.

It represents that during this period Capone was always more than $75,000 in debt to the three associates with whom he had organized the syndicate.

It admits freely that Capone never filed an income-tax return and in general concedes many of the points upon which the government based its present case. The crime is looked upon it—and so claimed in arguments attempting to keep it from the jury—as a virtual plea of guilty. The document supports evidence given yesterday by L. A. Shumway, for three years a bookkeeper in gambling houses in Cicero, who testified that the Hawthorne Smoke Shop and other gambling dives in 1924 showed a net profit of $96,290; in 1925, $115,465, and in 1926, $170,011.

Defense Makes Long Fight.

The wrangle over the Mattingly document came soon after the opening of court this morning when George C. Slentz, attache of the internal revenue department in Washington, D. C., was called as first witness. The paper was presented to him by Assistant United States District Attorney Samuel G. Clawson as government's exhibit A—a maneuver which brought Attorneys Michael Ahern and Albert Fink to the rostrum with objections. The jury was excluded, the letter and notes read to the court and an argument begun which lasted until well into the afternoon session.

The defense attorneys in their losing fight sought to have the letter treated as privileged matter, which as a presentation of fact in one particular negotiation was not admissible as evidence in another case.

Judge Wilkerson, after stressing the point that "a citizen guilty of violating a federal statute cannot escape indictment by presenting the facts in the case to a minor official of the treasury department," suddenly broke in on the wrangle and declared that the documents were admissible. The jury was recalled.

Miss Helen Alexander, 1912 South 49th avenue, Cicero, a draft teller in the Pinkert State Bank, was the next witness. She testified that Capone had had a deposit box in the vaults of this bank from April, 1926, to April, 1927. Under the contract through which this box was allotted to Capone it could be opened only in the presence of Louis Le Cava and A. Capone after both of them had signed the entrance slip. She said that she had seen the defendant many times during that year.

Identifies Mattingly Letter.

At this point Louis H. Wilson, internal revenue agent in charge of special fraud investigation in Chicago, was called to the stand. He identified the Mattingly letter as one

(Continued on Third Page.)

69-180-86

CAPONE'S STORY OF TAX TOLD TO JURORS

(Continued from First Page.)

received in his office on March 27, 1930. He said that he recognized the signature as Mattingly's, because Mattingly had subsequently given him other papers bearing his signature. He said that Mattingly had visited him first in his office on April 16, 1930, to talk over the matter of Capone's tax delinquencies and on the next day came in with Capone himself.

"What did Mattingly say to you about Capone's income tax?" inquired Mr. Clawson. The defense attorneys raised an objection which was sustained.

Mr. Clawson then turned from Mr. Wilson, picked up the Mattingly letter and began to read it to the jury, which leaned forward listening open-mouthed.

Admits Failure to File.

"[illegible] Mr. Capone [illegible] but revenue officials [illegible] could be [illegible] probably would be used against his client, came as a [illegible] [illegible] against him. It contains a frank admission that Capone never filed an income-tax return and after reciting the rise of Capone's income from $60,000 in 1926 to not more than $[illegible] in 1928 it says that he was willing to have these figures used as a basis for the computation of his net taxable income.

Accompanying the letter were stenographic notes of conferences between Mattingly, Capone and revenue agents, in which Capone described the founding of his "syndicate" which was to become one of the largest illegal corporations in the world. Capone stated that he had contributed no capital to the organization and that he had been joined by three associates. The profits of the organization, he said, were to be split so that one-third would go to the employees and commission to each of his associates and himself.

He said that he was carrying a $20,000 mortgage on his home in Florida and that at no time was he less than $[illegible] in debt to his associates.

Arrived with Bodyguards.

Mr. Wilson testified that on April 17 Mattingly, who had been to his Miami home on Sept. 19, 1930, Mattingly [illegible] all [illegible] to get exact figures on Capone's income and had found it a very difficult task. He had been unable to find complete records for each year.

"The next day Mattingly came in and gave me a typewritten sheet," Wilson testified. "He said to me, 'These income figures are the best we can do. Capone is willing to pay taxes on these.'"

At this point court recessed to permit a discussion of facts contained in Mattingly's audit.

His Big Ideas.

According to the story told this morning Mr. Capone was not satisfied with money whose exact ownership could not be pinned with precision. He began to have ideas for a big corporation—something like the General Electric or the Ford Motor corporation—a corporation that would be the chopping block of the alcohol business. And so he formed what might be called a little directorate consisting of himself and three associates. He outlined his proposition to the other directors admitting that he was bringing to this stupendous organization nothing but his brains and a pleasing personality and so was formed the shadowy entity since known as "the Syndicate."

[illegible] in 1925. The working [illegible] were simple. One-third of the earnings were to go to the employees—making this the greatest profit-sharing venture ever seen on the American continent. The remaining profits were to be apportioned equally between Mr. Capone and his three unnamed associates.

Despite what economists might have had to say about the practical parts of such an organization it prospered. In 1925 Mr. Capone's share was not more than $200,000; in 1927 not more than $400,000 and in 1928 and 1929 not more than $100,000 a year. There were some deductible expenses of course. Mr. Capone represented through his attorney that at no time during this period was he less than $[illegible] in debt to his associates.

The purchase of his Florida home cost him something like $20,000, he said, and in addition to that he was bravely fighting to pay off a $30,000 mortgage on the house itself. During all of this he apparently was able to preserve his smiling countenance, secure in the knowledge that the depression would last forever and prosperity would be somewhere just around the corner.

He was [illegible] along a large bodyguard at the time—just as other business men of his calibre surround themselves with men who remain constantly on the alert to the opportunity of danger also due to the opportunity of his business and many persons who might be classified as business associates.

[illegible] with a statement by Mr. Mattingly: [illegible] the taxpayer (taxpayer in this sense being a term identifying but not descriptive of Mr. Capone) as a basis for determining his net taxable income."

Close of Negotiations.

The letter, so the notes disclose, was handed by Mr. Mattingly on Sept. 20, 1930, to C. W. Herrick, internal revenue agent in Chicago at the time, bringing to a close a long series of conferences between Mr. Capone and government agents.

The overtures of Mr. Capone to reach an agreement with the United States and discharge his duties as a good citizen and taxpayer were started, so the notes disclose, March 26, 1930. At this time came Mr. Capone with the illuminating statement:

"Mr. Capone has never filed an income tax return but wants to co-operate with the government."

Mr. Mattingly represented that in this effort to render to Cæsar the things that presumably were Cæsar's—a just and equitable share of the profits obtaining from violations of the eighteenth amendment and such—Mr. Capone "certainly was sincere."

"The only difficulty is," stated Mr. Mattingly, "that he fears prosecution may follow any disclosures he may make while seeking this adjustment."

Mr. Capone, who attended this conference in person, indicated that Mr. Mattingly took the words right out of his mouth.

Frank Wilson, special revenue agent from Washington, admitted that the fears expressed by Mr. Mattingly and his client were well grounded.

"Any statement you make," he said, "may be the subject of an investigation. Anything you say that can be used against you will be."

His Frankness Suffers.

Mr. Capone's frankness suffered a bit through this warning, but he went so far as to admit what had been previously admitted by Mr. Mattingly, that he had never filed an income-tax return. He stated furthermore that he kept no books, had no checking accounts and carried no property in his own name.

"How long have you had a big income?" inquired Mr. Wilson.

"I never did have much of an income," replied Mr. Capone modestly.

Mr. Mattingly interrupted at this point to say—as has been previously set forth—that up to 1926 Mr. Capone had been working for Mr. Torrio, represented in this case as a crushing employer, and had made very little money.

Mr. Wilson asked: "Did you furnish the money to buy your Florida home?"

"I'd rather let my lawyer answer," said Mr. Capone.

Mr. Mattingly contributed that Mr. Capone had furnished $10,000 cash.

"No."

"Did your wife or relatives any?"

"I'd rather not answer."

"What did you do with your money?"

"I carried it on my person."

"Have you any connection with the Hawthorne dog track?"

"I'd rather not answer."

Next Talk in 1930.

That ended that discussion. The next negotiation was opened on Sept. 19, 1930, when Mr. Mattingly came to Mr. Wilson's office and told him he was having difficulty submitting the facts of the taxpayer's (the words are Mr. Mattingly's) income.

"The taxpayer," he said, "fears that they may be used in a prosecution."

Mr. Wilson promised no immunity, but did say that his office had nothing to do with prosecution.

So, the next day, Sept. 20, Mr. Mattingly arrived before Mr. Herrick with the lengthy document outlined above—the intimate story of the real Mr. Capone. And Mr. Herrick filed it away against the day when he could use it to send Mr. Capone to Leavenworth.

Bad News for Al.

It was generally believed by disinterested spectators about the courtroom that Mr. Capone might not survive were this story of his boyish struggle presented to the jury. And the defense attorneys seemed to take the same view of the matter.

Michael Ahern, of counsel for Mr. Capone, contended that Mr. Mattingly's letter was a privileged communication, submitted in a particular controversy with the government and therefore could not be used against Mr. Capone in another case.

Judge Wilkerson didn't think this was the case.

"You are wrong," he said. "A citizen (meaning Mr. Capone) who has violated a federal law cannot escape a federal grand jury simply by presenting facts to a subordinate of the treasury department. And the facts so submitted are not privileged as I see it. If a citizen comes to a government agent as in this case and gives income-tax figures to satisfy his full duties as a citizen under the law such an array of facts does not constitute a compromise and is not privileged.

"As I see it in this instance, the whole question is whether or not Mattingly's statements were duly authorized by Capone."

Mr. Ahern Declaims.

Mr. Ahern showed signs of rising choler.

"But, your honor," he said in a loud, clear voice, "we have long fought for justice in the matter of taxes. Remember we had the Boston tea party."

"But this is not the Boston tea party," Judge Wilkerson reminded him.

[illegible]

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PER FOR PEOPLE WHO THINK

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Manager of Famous Miami Hotel Tells How He Signed for Al's Money

Telegraph Orders for Thousands Sent Under 'Costa'

Parker Henderson, manager of the Ponce de Leon Hotel in Miami, was called to the stand in the afternoon session of the trial as a government witness against Al Capone. He was questioned by Dwight Green, assistant district attorney. He pointed Capone out in the courtroom and testified as follows:

Q—When did you first [illegible] defendant? A—[illegible] part of January [illegible] Ponce de Leon Hotel in Miami. I was in the defendant's [illegible]

Q—Who was present there at that time? A—I was called to the defendant's room by a Miami man named [illegible] and was introduced to a fellow named Nick Circillo, a fellow named Di Grande and Mr. Capone. I was introduced to him as Al Brown.

Q—Under what name was the defendant registered at the hotel? A—Under the name of A. Costa.

TAKEN TO DINNER.

Q—Did you later go to dinner at the defendant's home? A—Yes, I drove over to Mr. Capone's car with Circillo.

Q—Who was present at the home for dinner that evening? A—Circillo's wife, Mr. Capone's wife, Circillo, Mr. Capone, myself and I saw Hot Sara, but I think Danny Dooley and his wife were there.

Q—Did you see the defendant frequently thereafter? A—Practically every day throughout the entire Winter.

Q—Were you during that time over in the defendant's room in the Ponce de Leon Hotel when he transacted any business? A—Yes.

MONEY BY WIRE.

Q—Did you [illegible] business transactions with the defendant at that [illegible] about the middle of January, and I handled some Western Union money transfers for Mr. Capone [illegible]

Mr. Capone called [illegible]

'Big Shots' Fill Testimony on Capone Wealth

Testimony in Al Capone's income tax trial yesterday brought forth the names of numerous "big shots" in the gang and of the gang's friends and intimate associates, known in the "who's who."

DENNIS ("THE DOOLEY") DOOLEY, owner of the notorious Sex Hotel at Tonawanda, and [illegible] in the gang's [illegible]

FRANCIS PONCHERELLI, bodyguard of Capone, he was with the boss [illegible] when the latter was [illegible] in the shooting of Capone gunmen [illegible] Valentine's Day, 1929.

TONY ("HOPPY") FOLEY, secretary of the late "Diamond Joe" Esposito until the latter's slaying; recently a bodyguard and "heavy man" for Capone, and not long ago ordered deported by the government.

JACK McGURN, former gangster; machine gunner for the gang; a principal suspect in the Moran gang massacre on St. Valentine's Day, 1929.

JOHNNY TORRIO, successor to "Big Jim" Colosimo as "boss" of the underworld. Torrio taught Capone the "ropes" and surrendered the throne to him in 1925.

DANIEL KERRITHES, slot machine operator; city dealer under Mayor Thompson.

JAKE GUZIK, business manager for the gang; now under indictment for income tax fraud.

ROCCO DE GRAZIO, bodyguard and "heavy man" from Melrose Park.

NICK CIRILLO, bodyguard and former secretary to Capone.

[illegible]

Large Amounts Used for Beautification of House

[illegible] with reference to this property? A—Well, he gave me $1,000 to pay for the Rubber.

Q—Did he give you any of the check or anything of that kind? A—He gave me both.

GIVES $1,000 TO GANG.

Q—Any money paid later in connection with the closing of the deal? A—Yes, sir.

Q—Who paid it? A—I did.

Q—Where did you get the money? A—I got it from Mr. Capone.

Q—How long did the property remain in your name? A—Oh, for a period of about five or six months.

Q—Did you later execute any warranty deed in connection with transferring that property out of your name? A—Yes, sir.

Q—To whom did the deed run that you signed? A—To Mae May Capone.

[The witness told of taking receipts for various improvements on the Capone estate, including the swimming pool, which cost $1,000. He also showed the bad checks which appeared when he cashed them during Capone's absence in Miami. Then the questioning of the witness took up his visit to Capone in Chicago.]

NO CAPONE AT HOTEL.

Q—Now, tell us what you did upon your arrival in Chicago? A—I got a taxi and went to the Metropole Hotel. I went up to the desk and asked to see Mr. Al Capone. I was told there was no one there by that name. I started to walk out and a fellow came up and asked me who I was and I told him, and he said, "Just a minute, I will carry you up."

Q—Did you have a conversation with the defendant then following that conversation? A—I told him I needed some money to paid down there to pay off the bills there that were outstanding on the place. He paid [illegible]

177

Snorky admits he spent [illegible] improving his hotel on Palm [illegible] and outside Miami, but it takes [illegible] cap of living to make a house [illegible] and personally I feel he [illegible] of been happier if he had [illegible] served that money and had the [illegible] of kiddies' feet underfoot. [illegible] Guest, who is a poet, said [illegible]

* * *

Judge Walter Lindley, who is also [illegible] judge, comes in during the [illegible] and draws up a chair beside [illegible] Wilkerson. This is called sit-[illegible] on bank, and they is a lot of [illegible] these days that folded up [illegible] being sat on.

* * *

[illegible] Fiak, who is also Snorky's [illegible], is a Taciturn Man and when [illegible] walks in every morning swing-[illegible] cane he always says, "Hello, [illegible] to Joe O'Sullivan, who is court [illegible]. He never even gives a how [illegible] do to Snorky or his accom-[illegible], Mr. Aheru, and I want to [illegible] what kind of business this is, [illegible] Mr. O'Sullivan is with the enemy [illegible] it is a pretty kettle of fish when [illegible] does not even know his own [illegible] when he sees them.

* * *

[illegible] enterprise that made Florida [illegible] it is shown in the follow-[illegible] When Snorky's hotel man-[illegible] friend in Miami found he [illegible] to buy a house in Miami [illegible], he hotfoots over and tells [illegible] mayor and asks if they is any [illegible]tions. The mayor says, "If [illegible]ody is going to sell him a [illegible], it ought to be us," and that [illegible]

[illegible] a Western Union [illegible] transfer, dated Miami, Fla., February 16, 1928, payable to the order of Albert Costa, in the amount of $1,300, signed Ann McNeill, transfer agent, and ask you if you have ever seen that money transfer. A—Yes, sir, at the Western Union office in Miami.

DISGUISES WRITING.

Q—State if you know who signed the name Albert Costa appearing on the back of that check—or transfer. A—I signed the name Albert Costa on the back of that check, but I tried to disguise my handwriting.

Q—What did you do with the money? A—Gave it to Mr. Chrisfield.

SIGNS NAME "COSTA."

Q—I show you government's exhibit 48-B, dated Miami, February 7, 1928, payable to the order of Albert Costa, in the sum of $2,000, signed Ann McNeill, transfer agent, and ask you if you have ever seen that money transfer before. A—Yes, sir.

Q—Who signed the name "Albert Costa" on the back of that money transfer? A—I signed the name of Albert Costa.

Q—What did you do with the money? A—I either gave the money to Nick Circello or to Mr. Capone.

[illegible] *following introduction of* [illegible] *telegraphic money orders, the telegraphic money orders were made payable to Albert Costa by Western Union, and were endorsed by the defendant.*

[illegible] *telegraphic money orders were identified by Henderson.* [illegible] *amounts of $1,300 and $2,000.*

[illegible] *Henderson testified, he had never seen the defendant before.*

[illegible] *Henderson testified, he had never seen Al Capone before?* A—Yes, sir.

Q—Who, if you know, sent you the money by Western Union Telegraph? A—I suppose Al sent it.

Q—What did you do with the money? A—I used it for improvements that were going on the home that he purchased at Palm Island.

Several more such telegraphic transfers were identified by Henderson. They varied in amounts from $1,300 to $10,000. The witness stated the money, he said, was for improvements and improvements on Capone's estate.

TELLS OF HOME DEAL.

Q—Now, Mr. Henderson, did you have any other business transactions with the defendant? A—Well, some real estate agents called me and wanted to get in touch with Mr. Capone in regard to selling him some property. I was very closely connected with Mr. Newton Lyons, who was at that time mayor of Miami Beach, and I told him these real estate men were figuring on selling Mr. Capone some property and asked him what he thought about it. He said if anybody sold him any property that he said I should try. So I asked Al if he was interested in buying any property and if he would like to have a Florida home in Florida. So we carried him out and showed him several places on Miami Beach. Then we carried him over, and showed him this place in Palm Island. Some little time later he was [illegible] to build in [illegible] Q—Did what also [illegible]

[illegible] A—I and Frank Gritta, Ralph Capone, Sheriff Cotti, Charley Fiabotti, Rocky Marcy, Rocky Fiabotti.

DISTINGUISHED MONEY GETTER.

Q—You mentioned having received some money from the defendant while you were here in Chicago and having told him that you needed money to pay off the loan at 30 Palm Island. Is that correct? A—Yes.

[They followed identification of several telegraphic money orders sent by Henderson to his mother in Miami, with instructions to pay them to workmen on the Capone property. This money, Henderson testified, was given to him directly by Capone.]

TAKEN TO DOG TRACK.

Q—Were you entertained in any way by the defendant while you were staying here in Chicago? A—Well, I had all my meals with the defendant while I was here, and I went out to the race track one night with his brother.

Q—You mean dog track when you say race track? A—Dog track in Cicero or Hawthorne.

Q—Did you occupy a certain box at that dog track? Tell us about that box. A—It had the name Al Brown on the back of it.

[Photographs of Capone handbills were then shown to the witness. He identified these as John Onofrio, Charlie Fiabotti, Rocco de Grazia, Rocky Marcy and Ralph Capone, as gangsters, who served through the regime of Al Capone.]

[illegible]IAL REGALLS [illegible]IALE SLAYING

[illegible] manager of Al Capone and [illegible] Henderson Jr., son of a fat-[illegible]mayor of Miami, who testified [illegible] police's income tax trial yes-[illegible] were first linked together [illegible] 1928, when Henderson sup-[illegible] bailbondsmen in the killing of [illegible] Uale, Brooklyn gangster. [illegible] that time Henderson was said [illegible] told police he purchased [illegible] Capone, one of which was [illegible] established as the weapon [illegible] which the Brooklyn bandit was killed. [illegible] said Sam Chicago gang [illegible] Capone in Miami [illegible] before Uale was slain. They [illegible] and entertained by Chicago [illegible] off the train in Pennsylvania [illegible] stored in New York. [illegible] probably after the [illegible] Jamaica Bay [illegible] have been [illegible] and [illegible] revealing [illegible] was [illegible] of the gangster [illegible] with [illegible]

Sentence Two Capone Aids in Grant Park Shooting

Fried that the most effective way to get to headquarters in Chicago has gone was given yesterday when three gangsters, all [illegible], had their cases in the criminal court. Sam Hunt, John [illegible] and Thomas J. [illegible], alias "Red" Forsythe, both [illegible] in the slaying of Alderman [illegible] Lingle, Tribune [illegible], were sentenced to ninety days in the house of correction by Municipal Judge Hartigan in a [illegible] of a new law forbidding [illegible] public meetings on [illegible].

Frank Bellingtin, [illegible], fled indictment, but in the [illegible] Court [illegible] by [illegible] Judge [illegible] as abandoned car found later had traces of blood and bullets.

Judge Hartigan sentenced the trio, despite failure of the state to prove either had possession of the revolver when arrested. They were captured by police as they fled the scene, and a gun was found near them.

ALIBIS BRING LAUGHTER.

Alibis offered by the two were greeted with laughter from court spectators. Fawell explained he was running because he heard an auto backfire against. Hunt first explained he heard a [illegible] backfire. The two were [illegible] on bond pending an appeal.

Bellingtin [illegible] the indictment on the ground that he had been refused a continuance when arraigned before Judge [illegible]. He had been [illegible] a [illegible] and [illegible] a [illegible] [illegible] The higher court [illegible] Bellingtin's [illegible] [illegible]

Kingsford-Smith Too Ill for Flight Home

LONDON, Oct. 2.—(U.P.)—Plans of Wing Commander Charles Kingsford-Smith for an attempted record flight from England to Australia went by the board today when his doctor forbade him to fly for three months because of nervous exhaustion and heart strain.

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17

[illegible]

He said that Capone [illegible] the hotel with Nick Circella and Rocco de Grazio, his heavy man and bodyguard, and registered under the name of A. Costa. He said he saw Capone every day for about two or three months, and went to parties at his home, where he saw Dennis ("The Duke") Cooney, State Senator Barrittella and Capone's wife and brothers.

On January 24, 1928, Henderson said, Capone called him in and requested:

"There's some money down at the Western Union. Will you go down and get it for me? It's under the name of A. Costa."

The first was an order for $1,500. From then on the money kept coming every three or four days, usually in amounts of $1,000, through the months of February, but growing to $4,000, $5,000 and $6,000 on each order thereafter until the end of May. During the later months the orders came at longer intervals.

Henderson said he learned that [illegible] Parker Henderson of Miami Beach, who [illegible]

"If anybody sells Capone property, you and I ought to do it."

Not long after Capone moved into Palm Island and there was a great hue and cry that the [illegible] of Chicago's civic pride had settled among the wealthy Winter colony.

Henderson said Capone put up $2,000 and that he (Henderson) later paid in $8,000 of Capone money to close the deal. The deed was in Henderson's name, but was later transferred to Mrs. Mae Capone, the gangster's wife.

The witness said he acted as Capone's agent in making the improvements on the gangster's domicile, told of paying out $4,000 for a swimming pool, $2,000 for a wall about it and $500 for light fixtures.

When Henderson came to Chicago to collect some unpaid bills owed by Capone, he said the gangster put him up at the Lexington.

Girl Identifies Capone and Money Order Receipts

Katherine Gaing, a pretty [illegible], whose bright red frock brought a flash of color into the courtroom, succeeded Henderson on the stand and continued the story of Capone's telegraphic income.

Miss Gaing was [illegible] money order [illegible] to Alphonse Capone, Albert Capone, May Capone and Johnnie Moran, his caretaker, and testified that, although the bulk were in Al's name, the gangster had instructed her to pay the money to any member of his household who called for it. Al called often himself, she said.

[illegible] TO MIAMI BEACH.

Approximately [illegible] came to Capone at Miami Beach at the same time that a deluge of money kept flowing into the Western Union office at Miami under the name "A. Costa."

The Miami transactions were corroborated by Mrs. Ann McNeil, Western Union employe.

TRACES SOURCE OF CASH.

Having established the outlet of Capone's money, Prosecutor Green then began the task of showing its sources, calling upon John Fotre, [illegible]

[illegible] with his witness, but Fotre said he "didn't know for sure."

The judge [illegible] down upon Fotre, then looked up at the clock. "We will adjourn until 10 o'clock [illegible]," he said. "[illegible] this [illegible]."

There will be a two-hour session this morning.

The morning session opened with Judge Wilkerson's warning to the jury that if any one attempted to communicate with them word of the attempt should be reported immediately to the court. He said such an attempt might be serious. Again at the noon recess he warned against attempted tampering.

READS CONFESSION.

Prosecutor Samuel G. Clawson opened the government's attack with the reading of Capone's "confession," the letter which Attorney Lawrence P. Mattingly of Washington gave to revenue officers on September 20, 1930, estimating Capone's income from 1926 to 1929, inclusive, at $266,000.

Then the government called [illegible] L. Bay, chief of the intelligence unit of the internal revenue department at Washington, who testified Mattingly [illegible]

[illegible] the glory of the [illegible] running through it all like a thread of gold runs the account of how Snorky is a [illegible]. In fact, if you look close, the thread is Gold, as Snorky is still on the Gold Standard, even if the British ain't.

* * *

They bring up a lot of guys from Florida to tell how Snorky runs through the jack down there. He is interviewed by the best people, including the state's attorney, sheriffs and chief of police. "What you doing in our back yard?" these persons ask. But Snorky just says he came down to throw a little business their way and begins passing out 5 buck tips. And that is how Florida got over the depression.

* * *

The Florida people is interested in how Snorky makes so much kale and asks what is his business. Cleaning and pressing, says Snorky. Also real estate. And he is also a gambler on the side. "Ain't it a fact," they ask him, "that you bootleg?" But Snorky says he ain't never a bootlegger in his life, and, personally, I never had him deliver a pint of gin in a briefcase to me. My bootlegger is [illegible], who is an interior decorator on his cards.

* * *

Snorky gets to be such friends with all of the Florida boys [illegible] they ask, "well," Mr. Smith, "they put it or [illegible] like that," and what I [illegible] is, Mr. Smith had an enlarged perspective, which is a word I borrow of F. D. R.

* * *

I have solved the mystery of the disappearance of Charlie Ross, which the famous corpus delicti [illegible] never proved. Because it comes out Snorky is registered at the Metropole as Mr. Ross, and it is my belief that this is flying False Colors.

* * *

The hotel clerk says a room is registered for under the name of Brown. Asked who Mr. Brown is, he says: "Presumably Mr. Ross," and when they asked who Mr. Ross is, he says: "Presumably Mr. Capone," and this is a vicious circle [illegible].

* * *

Snorky was trying to buy an island called Cat Key, in the Bahamas, but the owners wanted $500,000 for the same and the negotiations fell through. I guess Snorky got world-weary and remembered how Robinson Crusoe got away from it all, and just wanted to get this island and go down there with Phil D'Andrea, his Man Friday, and pass their old age reading good books and untroubled by the G men.

* * *

They ask Snorky where all his money comes from and if it didn't come [illegible] Chicago. Snorky says [illegible]

Price of Alcohol Boosted for 'Big Fellow's' Defense

Two swarthy but sleek young men with bulging hip pockets walked into a speakeasy in N. [illegible] av. yesterday.

[illegible] on N. Seventy-second [illegible].

Another pair drifted into a [illegible] on the Southwest Side.

And still another duo entered a "soft drink parlor" in Rogers Park.

Behind each pair came a boy with a five-gallon can of alcohol.

Said the swarthy but sleek young men in each instance:

"That can will be [illegible] instead of thirty bucks this time. You know the 'Big Fellow' is on trial and he's got some high-priced mouthpieces. In other words, they've got to [illegible] defense fund, get me?"

And in each instance Joe, Tom, Dick or Harry drew [illegible] from the "damper," and with a smile that may have had a tear or something behind it, laid the money on the bar, saying:

"O. K., cowboy."

This happened during the past week in Chicago's speakeasies, beer flats and so-called soft-drink parlors, which, according to information, exceed 20,000 in number.

[illegible]

At the Metropole Hotel, a [illegible] bald man of middle age, [illegible] headquarters. [illegible] manager of the hotel, was the next witness. [illegible]

SATURDAY, OCTOBER [illegible]

State's Attorney's Office Opens [illegible]

15 INSPECTORS QUESTIONED ON FAULTY WORK

Declare Concrete Inspection Service Is Undermanned; Contractors Held to Bond

First steps to investigate charges that the city was defrauded of nearly $800,000 on a million dollar street lighting contract were taken yesterday by the state's attorney's office. The charges were made public last September [illegible] by the Citizens' Association, which demanded indictments.

The contract called for installing 4,905 light posts and was awarded to the Electrical Contracting Company for $1,082,365. This was the "low bid"—only one other bid having been submitted. This bid, the association charges, was made merely for appearance sake.

INSPECTORS SUMMONED.

In launching the inquiry, Assistant State's Attorney Homer A. Dodge summoned fifteen city electrical inspectors. They were questioned as to why the city permitted the type of installations revealed by examination of hundreds of posts selected at random. The examination revealed many of the posts were smaller than the specifications called for and that inferior concrete was used. In some cases city material was used—for which the city was charged.

The testimony of the inspectors revealed the "strange" situation of there not being enough inspectors on the job at one time and too many at another. The shortage lasted until the concrete was placed, Mr. Dodge was informed. When this part of the work was completed and relatively unimportant work remained, inspectors "flocked" to the construction scene.

REFUSED MORE MEN.

Each of the witnesses related that during the concrete work he had so much to do that he could not inspect everything carefully. Chief Inspector Francis O'Donnell testified that he asked for more men, but his request was refused.

Commissioner of Electricity Jackson pointed out that the terms of the contract [illegible]

OPERA STARS WED

UNDAUNTED BY LAW—Dorothy Dorrey and her bride, the former Hilda Hopkins Burke, [illegible] on Dorrey's arrival on the [illegible] groom are [illegible] opera. They [illegible]

LYLE DOOM[illegible] AS PROSECUT[illegible] AT G.O.P. M[illegible]

Entry Into Race Pre[illegible] Record Praised, Boo[illegible] Emmerson Stirs Co[illegible]

By John [illegible]

Municipal Judge John H. [illegible] entry in the race for the R[illegible] nomination for state's [illegible] hey was forecast last night [illegible] resolutions adopted by the [illegible] Republican Organizati[illegible] group aided him last [illegible] in carrying the ward [illegible] Thompson for the R[illegible] nomination for mayor.

RECORD PRAISED.

As announced by Secretar[illegible] H. Hough, the resolutions [illegible] the group known "of no Rep[illegible] in this county to yell [illegible] Judge Lyle "to perform the [illegible] of such an exacting office." [illegible] praising his record it urg[illegible] to become a candidate.

The action of the ward g[illegible] interpreted as the forerunne[illegible] formal announcement of h[illegible] candidacy later.

"BOOING" STIRS COMME[illegible]

Two incidents in the Repu[illegible] gubernatorial contest caused [illegible] ment in political circles yes[illegible] Politicians made much of th[illegible] that Governor Emmerson [illegible] hoped at the Hawthorne race [illegible] Thursday when his presence [illegible] announced through the vo[illegible] plifying apparatus.

The other "bit" was that [illegible] ney General Carlstrom was [illegible] a rousing demonstration a[illegible] Decatur meeting of the Illino[illegible] publican Service Men's L[illegible] Delegates from thirty-two [illegible] 102 counties in the state were [illegible]

Insurance R[illegible] Traps Raid Susp[illegible]

[illegible] William Hazel [illegible] Seventy-seven [illegible]

180

A PAPER FOR PEOPLE WHO THINK

),000 City Light Fraud Investigation

ue to Halt Sale of $12,264 Back Tax Properties

A PETITION FOR an in-junction to stop County Treasurer Joseph B. McDon-ough from proceeding with the ale of property in default of 29 taxes was filed in Circuit ourt yesterday in behalf of ine taxpayers.

The bill alleges seven points f illegality, among them harges that the properties were ot offered for sale on the day pecified; that there was no uthority for the reassessment; hat the board of assessors and ewiewers failed to make public he assessment list, and that the ssessment was directed by olitICIans. The value of the roperty involved is $12,264.

LUE SPEEDS M'ERLANE HUNT

Speeding the hunt for Frank Mo-Erlane as the murderer of his wife as the discovery last night that hicago's cruelest gangster was the ody known hoodlum who was in n death car that carried his vic-m's body.

So certain are police that it was McErlane who killed the woman nd left her body in his bullet-rid-led and blood-stained car Wednes-ay night, that they expect to find im intoxicated, still on the spree, which started before the murder.

TRACE FINGERPRINTS.

Development of fingerprint pho-os, made from marks on the car as completed last night at the ureau of identification. Five dif-erent prints were found, but only ne could be identified. That was McErlane's.

With this police abandoned the heory that Mrs. McErlane had een slain by gangsters in an at-empt to kill her husband. All shots ere fired from within the car, and one who entered wiped them ff fingerprints.

HIDE SECRET MARRIAGE.

The secret marriage of the gang and Freda (also known as Miller was revealed yes-

TOADSTOOLS TAKE 3 LIVES; 18 POISONED

Ten Members of Two Families Ill Here; Fatalities in Milwaukee and Toledo

(Picture on Back Page)

Ten persons, members of two families, were ill yesterday after eating poison mushrooms which two sons of one family gathered on a hike in the forest preserves.

Those ill are Louis Clark, 50, of 324 S. Damen av.; his wife, Anna, 45, and their five children, Louis, Grace, Elizabeth, Anna and Amilio, 2; Mrs. Mary Clark, 38, of 2860 W. [illegible] place; Albert, 18, her husband, and Lora, 20, their daughter.

The Clark boys gathered the mushrooms, which one mother fried for dinner, after giving some to the other family. Physicians at the County Hospital treated them.

TWO DEAD IN TOLEDO.

TOLEDO, Oct. 5.—(AP)—Two persons are dead and seven others are in hospitals critically poisoned from eating toadstools they believed to be mushrooms.

Mrs. Cora Chandler, who ate toadstools last Sunday, died tonight. Frank J. Martin, 32, died last Tuesday, but the cause of his death was not known until today. Mrs. Martin also became ill after eating toadstools, but recovered.

At East Side Hospital was a family of five, all seriously ill from eating toadstools Wednesday night. Matt Lockard, 38, his wife, Carrie, 33, and their children, Noyell, 10; Phillip, 8, and Vaughan, 4, were found in their home today in a stupor which medical treatment has failed to alleviate. Vaughan is expected to die.

CONFISCATE TOADSTOOLS.

MILWAUKEE, Oct. 5.—(AP)—[illegible] and is dead here and his wife seriously ill after eating wild mushrooms purchased at a [illegible] market.

To avert further tragedies, Dr. J. P. Koehler, city health commissioner, has placed a ban on the sale of such mushrooms by city store keepers. The [illegible]

COSTLY RIDE

June Marlowe

LOS ANGELES, Oct. 5.—An auto accident today cost June Marlowe, film actress, $500 when a jury awarded the damages to Sherry M. Ovitalt, who was injured by a machine in which Miss Marlowe's half her brother, Armand, were riding.

Sergeant and Nine Policemen Shifted

[illegible]

NOTED SURGEON WARNS AGAINST CANCER QUACKS

Rely on Surgery, Radium or X-Ray, Says Dr. George Grantham; Early Cases Cured

[illegible] for cancer patients to rely on surgery, radium or X-ray, [illegible] agents who [illegible] cancer, said last night by Dr. George Grantham, noted British surgeon, [illegible] in a lecture [illegible] in the Medical Society [illegible] Early diagnosis is very important, regardless [illegible] cancer. He said [illegible] is entirely fully a cancer cancer that finds them to the grueling hope he said.

EARLY CASES CURED.

Treatment in the early stage before the cancer has been fully established results in cure in virtually every instance, Dr. George said.

Dr. Joseph Colt Bloodgood of Johns Hopkins Hospital, Baltimore, also stressed the point that only surgery, X-rays or radium are effective in treating cancer. He said the old-fashioned family physician could do more to aid in the fight against cancer by providing an early diagnosis if patients would go to him with their first symptoms.

URGES CANCER CLINICS.

Dr. Bowman C. Crowell, director of clinical research of the American College of Surgeons, advocated the further establishment of tumor clinics, available to the public, to provide the best and latest benefits of cancer research.

The appearance of the three distinguished surgeons marked the beginning of the Louis A. Grossmann memorial lectures to be held annually at Michael Reese. The lecture also marked the opening of the hospital's new tumor clinic.

Teachers' Pension

181

Grape Dealer Kidnaped by Pair

North Chicago and Whiting police party today were seeking Anthony Iaiongo, [illegible] Lyman St., a dealer in grapes, who was abducted by three men after they had robbed the company of a truck load of grapes.

Posing as customers, the two induced Henry Camino, 6904 Ewing av., son of Iaiongo's partner, Michael, to deliver the grapes to Whiting. Taking the truck from the youth, the two instructed Henry to return to his home.

As Henry was en route, Iaiongo and Camino Sr., were lured to Whiting by a telephone call that the boy had been hurt in an accident. There Camino was beaten by the two and Iaiongo kidnaped.

'Countess' Refuses to See U. S. Agent

His mission a mystery—Henry Tetlow, a federal operative, last night attempted to question Mrs. Lottie Bremner von Buelow, 5439 Sheridan road, at her home, but was denied admittance. Tetlow is understood to be investigating an alien smuggling ring here. Mrs. von Buelow has filed several divorce actions against Enrique Dechow, who posed as "Count von Buelow."

Rob Street Car in Flying Holdup

A new technique in robbing street car conductors was employed by two bandits last night.

They used a roadster, one of them driving alongside the street car, the other hopping to the pavement, then onto the street car, menacing the conductor with a pistol, taking the money changer, then hopping back to the roadster—all without stopping either vehicle.

Victor Carlson, conductor on an Lake st. car, lost $15 in that way, and Jerry Stinks, conductor on a Grand av. car, lost $10. Passengers were not aware of either robbery.

Lawyer Exonerated in Slapping Charge

Theodore Miller, former assistant state's attorney, was freed yesterday by Judge Hartigan when arraigned for disorderly conduct. The lawyer was charged with slapping Homer Ingalls, 10 N. Wells st., and throwing him down stairs when he tried to serve a five-day notice on him.

132

[illegible] quantity of [illegible] ing. The Citizens' Association report was that $800,000 worth have been a good price for the job if excellent work was done [illegible]

COMPANY UNDER BOND

As for the work, Commissioner Jackson said that the company will be held to its $800,000 bond and a due payment of $150,000 held up unless faulty construction is remedied.

Mr. Jackson estimated that it will cost $150,000 to correct the faulty work. After the association made its charges his men dug into 102 posts and found that the bases were set only about twenty-eight to thirty inches deep, whereas the blueprints called for depth of forty-two inches. It was also found that the concrete in many cases is disintegrating.

Beat Dry Posing as Whisky Buyer

Charles O. Kral, a prohibition agent, was severely beaten yesterday when he posed as a wholesale liquor buyer at a whisky plant in the rear of 9851 Cottage Grove av.

He was rescued by three other agents who had been waiting outside to raid the place. They arrested Fred Morris, Harold Nixon, Fred Mertens and Angelina De Mari, 22. The men, charged with possession and manufacture of liquor, will be arraigned before United States Commissioner [illegible] today.

Drops Extortion [illegible] Finds Family [illegible]

Charges of attempted extortion against Michael Gibbs, 6738 S. Marshfield av., were dismissed in Felony Court yesterday when the complainant, Stewart E. Joyce, 32 of the Sovereign Hotel, failed to appear. Later Joyce reported his wife and son were missing. Police who investigated his story said they believed the wife and son were visiting relatives in Michigan.

Finds Bremen Pilot's Body; Monocle in Hand

[illegible]

[illegible] Civic [illegible] announcing that [illegible] received from the [illegible]

ACCORD NEAR IN MOVIE WAR

Progress toward settlement of difficulties between the Moving Picture Operators' Union and owners of independent theaters was reported yesterday at the conclusion of the third conference in the offices of William H. Sketon, corporation counsel.

The meeting was closed. Mr. Sexton said the conference had been adjourned until Tuesday morning.

In the meantime representatives of the operators' union will study data furnished them by the exhibitors' association.

Witnesses failed to identify Albert Lazar, 35, and Solomon Grossman, 32, as men implicated in the recent bombings of unfriendly theaters engaged in the warfare with the operators. Both admitted having been hired to "turn" New York [illegible]

[illegible] Wednesday [illegible] then, today re-elected J. Hampton Moore, former mayor of Philadelphia, who has been president of the organization since its inception.

BEATS GUNMAN FOR THREATS

[illegible] John Gill and John Connors, [illegible] parolees, seized Thursday evening after they kidnaped two members of the the setters' union, were being shown up at the detective bureau last night.

Walter Rosterler, 625 Ransom st., a union the setter, stepped up to the pair.

"You," he said to Connors, "put a gun to me the other day and ordered me to quit my job. And you"—pointing to Gill—"hit me over the head with a hammer when I said I'd go on working. I might as well pay you on the nose."

"Well, why don't you try it?" Gill sneered.

Biff! Gill hit the floor recumbent.

"Why that isn't all you yellow [illegible] from me," Mr. Rosterler [illegible] as he strolled out of the [illegible] room. "I'm going to see that you go to the pen and go there for keeps."

Rosterler signed complaints against both men.

Scenarist Plots Jocelyn Into Court; It's a Riot!

LOS ANGELES, Oct. 6.—(U.P.)—"There's nothing like reading a good complaint drawn up by a newspaper to find out all about what's going [illegible]

"But I'll have to be an accident [illegible] things I'm [illegible]"

Rudolph Lee, [illegible] [illegible]

[illegible] Hunt Policemen [illegible] Cafe Assa[illegible]

Policemen Joseph Ba[illegible] the Kensington station, w[illegible] of dying last night as p[illegible] tinued to search for the [illegible] shot him early yesterday [illegible] home at 11851 S. Michigan [illegible]

The man suspected of [illegible] ing is Thomas Scupino, [illegible] Fifty-first court, Cicero. [illegible] was held that he is affili[illegible] the Capone gang, as it w[illegible] of that he was rushed [illegible] scene to the Lexington [illegible] Capone's headquarters, [illegible] taken to Cicero. Police [illegible] home there, but failed to [illegible]

Langguth Wins Hearing in Ban[illegible]

The State Supreme Co[illegible] day granted a rehea[illegible] P. Langguth, former pr[illegible] the defunct People's Sta[illegible] Maywood, and Miss Laver[illegible] gren, his cashier. Assuming [illegible] ing the bank, they were [illegible] determinate sentences, [illegible] filing statements [illegible] contracts. Previously the [illegible] Court upheld their convic[illegible]

Clear Peddler's [illegible] of Reckless C[illegible]

A horse owned by [illegible] driven, Judge Edelman [illegible] terday in dismissing [illegible] a peddler of 1420 Hastin[illegible] charge of reckless [illegible] to motorists along the [illegible] in dismissing them and [illegible] arrested because their [illegible] had sideswiped an auto[illegible]

Eugenie Hats [illegible] Before Her [illegible] Says Prof[illegible]

DALLAS, Tex., Oct. [illegible] —Frank Russell [illegible] press Eugenie [illegible] she doesn't deserve.

Russell is a member [illegible] Southern Methodist U[illegible] faculty. He has just [illegible] a foot's study of the [illegible] costumes.

He said plainly [illegible] shallow minded [illegible] and by the beauty [illegible] worn during the reign [illegible] II of Great Britain [illegible]

[illegible]

133

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U. S. Department of Justice

Bureau of Investigation

POST OFFICE BOX 1405
CHICAGO, ILLINOIS

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BUREAU OF INVESTIGATION-DEPT. OF JUSTICE DIV. ONE

OCT 7 1931 PM

RECEIVED

October 6th, 1931.

Director,
Bureau of Investigation
Department of Justice,
Washington, D.C.

PERSONAL AND CONFIDENTIAL.

AIR MAIL

Dear Sir:

Inspector H.H.Clegg has informed me that in one of his conferences with United States Attorney George E. Q. Johnson, Chicago, Illinois recently, the latter recited that he had interviewed certain persons in Florida regarding the case entitled ALPHONSE CAPONE, Contempt of Court, who were never contacted by Special Agents of the Bureau of Investigation.

Please be advised that I have obtained through Special Assistant to the Attorney General William Froelich, a complete list of the witnesses who were subpoenaed in the above entitled case and checked same with the file in this office, with the result that all the witnesses who were subpoenaed had previously been interviewed by Special Agents of the Bureau of Investigation.

It appears however, that two witnesses, namely Charles Clarke, Special Agent, Bureau of Internal Revenue, Jacksonville, Florida, and Raymond Brown, attorney for the Bureau of Internal Revenue, Jacksonville, Florida, appeared voluntarily and testified. The names of these two individuals do not appear in the Bureau file.

Mr.Froelich informs me that Mr.Brown testified that he had seen subject in Florida on one occasion, and that Charles Clarke likewise testified that he is acquainted with subject Capone, and saw him in Florida on one occasion. Mr.Froelich recites that the testimony of both of these individuals was immaterial and irrelevant.

I have been endeavoring to obtain a transcript of the testimony of these two witnesses, but due to the present trial of subject Capone, on a charge of failure to make proper income tax returns, Mr.Froelich has been unable to obtain the desired data.

69-180

69-180-87

RECORDED

NATHAN
Div. Three

I will continue my efforts to obtain a complete transcript of the testimony of the two witnesses mentioned above, and forward same to the Bureau.

Very truly yours,

W. A. McSWAIN
Special Agent in Charge.

WAM:JMS

185

Precipitation in twelve hours ending 7 a. m. .11 inch
(Government forecast for greater Chicago on page 2.)

STERN HAND ON CAPONE

JUDGE REFUSES TO DELAY CASE OF GANGSTER'S BODYGUARD.

D'Andrea Bearing the Carrying of a Weapon to Court Is Serious Matter and Must Go to Trial.

(By the Associated Press.)

Chicago, Oct. 12.—Philip D'Andrea the Capone bodyguard who carried a pistol into federal court in the income tax trial of "Scarface Al" Capone, was told in no uncertain terms today he was in serious difficulties. He was given until tomorrow to defend himself and meanwhile ordered held without bond.

"The federal court is not obliged to exercise its duties confronted by an armed man sitting next to a defendant," Judge James H. Wilkerson said sternly as D'Andrea was taken before him.

DEFENSE IN OLD PERSUIT.

D'Andrea first asked for a few days [illegible] to prepare a defense but after the court warned it would [illegible] for hours he appeared satisfied to have his case decided tomorrow.

The bodyguard's defense was expected to be that he was once given a star and authorized to carry a firearm as a deputy municipal court bailiff and that he believed the permit still was valid, although the present chief bailiff said the star had been revoked.

D'Andrea was [illegible] of the welfare of his chief that he carried his pistol with him Saturday as he sat at the counsel table behind the scar-faced gangster and only a few feet from Judge Wilkerson. On Judge Wilkerson's orders he was stopped as he left the room, found to be carrying the weapon and taken to the county jail for the weekend.

DELAY IN CAPONE TRIAL.

Capone, his income tax case delayed by the D'Andrea contempt of court case and several others, was not in the court room. The gang leader's attorneys, however, did what they could for D'Andrea.

Albert Fink, defense attorney, suggested the matter be delayed until after the Capone trial had ended. He also said the jury should hear "all the facts." Judge Wilkerson said the [illegible] permitted to read newspaper accounts of the Capone case and knew no hint of the D'Andrea case. The judge held the bodyguard's case was an independent proceeding and he could see no reason why it should be delayed.

Michael Ahern, chief defense counsel, suggested there might be several questions of law to be argued, such as the possible illegality of the D'Andrea arrest.

Judge Wilkerson overruled the attorney's suggestion and said: "There appears to be no dispute of the fact that this man sat through the proceedings Saturday armed."

MOODY CAPONE IN COURT.

Capone appeared after his bodyguard had been returned to jail and sat glumly at a counsel table while his private affairs were discussed before the jury. Today there was nobody behind the gangster except a group of reporters and a few dozen spectators. His two attorneys were busy making light of the government's testimony in his income tax trial. It was all old stuff to Capone—how he paid $12,500 for a motor car, $27.50 for a shirt, $4.85 for a necktie—and the gang leader paid it no heed. He leaned heavily on the table, toyed with a brief case and at times stared vacantly ahead of him.

For a man who never paid an income tax the government attempted to show that Capone was considerable of a spendthrift. When he desired a motor car he ordered one especially made to suit his purposes and paid $12,500 for it. When he ran short of shirts, he stopped in at a large Loop department store, ordered a dozen custom made, at from $18 to $27.50 each.

FURNITURE FOR FLORIDA HOME.

Furniture purchased in 1928 for the Palm Island, Florida, estate of the gangster cost $7,289.15, and was promptly paid for, Jean Rieves, a bookkeeper, testified.

Guy C. Burton, the salesman who ordered Capone's custom built car in 1924, said the $12,500 car was traded in and $3,500 added for a new one two years later.

Two department store employees who sold the gangster his haberdashery said that when Capone bought himself some finery he usually purchased some for the men who accompanied him.

Capone did not attempt, through his personal appearance, to refute his reputation for sartorial display. He wears a different suit almost every day. Today it was a dark violet shade with the sleeve cuffs turned up an inch or two.

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JUL 13 1972

ARCHIVED ORIGINAL-RETAIN

Capone Defense May Be Concluded Today; Race Losses Related

Gangster's Bookmakers Testify That Al Dropped $262,000 on Horses; Torrio Present

By United Press

CHICAGO—Al Capone counted today on the weakness for gambling on horse races that cost him at least $262,000 in six years to save him from the penitentiary.

His defense was a paradox. His attorneys had called witnesses to describe the gang leader as a colossal dupe of race track bookmakers as his trial on charges of income tax evasion in U. S. District Court swept toward conclusion.

Case May End Tomorrow

There was prospect that the defense would rest its case before noon. With four hours allotted to each side for argument, the case could reach the jury tomorrow.

Al Capone, owner of the gambling house "gold mines" in Cicero with a yearly net of $150,000 each, had been depicted in prosecution testimony.

Court Becomes Race Stand

Al Capone, sucker, who was hail fellow to the bookmakers, who placed four or five bets a day on each day of the racing seasons, bet as much as $6000 on a single horse to win, and almost always lost, was pictured yesterday by the defense.

Federal District Court room took on the color of race stand and betting booth as a procession of bookmakers went to and from the witness stand. Their testimony was intended by the defense to show that while Capone was a plunging gambler and bet large sums, he lost consistently and had no wealth on which to pay income tax.

Good Credit Risk

None of the bookmakers could recall any of the "al. runs" on which Capone wagered from $100 to $6000 "on the nose." All agreed Capone was a good credit risk.

"I knew he was fair and honest in all his business transactions," said Gutter. "If he won, I usually took the money to him at the Metropole Hotel."

Besides the bookmakers, Pete Penovich, manager of Cicero gambling houses that the prosecution contended belonged to Capone, took the stand. He pictured Ralph (Bottles) Capone, Al's brother, as the overseer. The prosecution, comparing his testimony with that he gave before the grand jury, attempted to impeach the witness.

Federal District Judge James H. Wilkerson reserved decision.

Whether Johnny Torrio, the man who brought Capone to Chicago in 1920 and started him on the road to gang dominance, would be placed on the stand by the defense could not be ascertained. Torrio sat with other prospective witnesses yesterday.

The Washington News
Oct. 15, 1931

69-180 69-180-87X1

"NEWS WHEN IT'S NEWS"

78th Year, No. 19

KANSAS

Times Enterprise

CAPONE BARES RACE LOSSES, THEN RESTS

Last Minute Moves to Strike Out Damaging Testimony Fail.

By United Press.

FEDERAL BUILDING, CHICAGO, Oct. 18.—Al Capone's attorneys rested his income tax fraud case at noon today, after portraying him as a race horse gambler who lost $250,000 or more.

A last minute motion of the defense to strike from the record testimony regarding Capone's alleged gambling house revenues was overruled by Judge Wilkerson.

Another motion to exclude the testimony of internal revenue bureau officials that Capone admitted he had filed no returns and paid no income tax also was overruled.

A third motion, also overruled, would have struck out testimony that Capone shouted, "Tip the owner

CAPONE-BURKE LINK IS SOUGHT IN MICHIGAN

MARQUETTE, MICH., Oct. 18. (U.P.)—Michigan prison officials sought to link Al Capone and Fred (Killer) Burke in underworld confederates today after identifying photographs of Philip D'Andrea, Capone's bodyguard, as those of a man who joined Burke in his gun battle [illegible] with [illegible] Gordon James F. Lyons, [illegible] said D'Andrea's photograph after the bodyguard was arrested on a concealed weapon charge at Capone's home. [illegible]

B - .MA

Capone's Zero Hour Nears as Attorneys Begin Final Pleas

Jury Told They Have 'Privilege of Putting Stamp of Disapproval on the Capone Gang'

By United Press

CHICAGO—The zero hour for Al Capone ticked nearer on the clock in Federal District court room today.

His attorneys wound up their defense yesterday and Asst. Prosecutor Jacob I. Grossman launched the appeal to the jury that opened the final attack of the government on the man it has sought for three years to imprison. Capone is charged with income tax fraud.

Grossman told the small town tradesmen on the jury:

Jury May Get Case Tomorrow

"You have the privilege of putting the stamp of disapproval on the whole Capone organization and the conduct of this defendant. Under the evidence, you can do nothing but find him guilty."

The jury may receive the case before noon tomorrow. Under the four-hour argument allotment to each side, the government should conclude and the defense get well started today.

Capone, feared as gang despot and Florida playboy with wealth to throw away by the prosecution and by the defense as an "organization" handy man who got his hands on a lot of money and wasted it betting on second-rate horses to the tune of $375,000 in one year, is specifically charged with evading $215,000 income tax.

D. C. Attorney Not Called

The case came to conclusion rapidly yesterday. Eight former bookmaker pals of Capone testified that he lost a total of $375,000 "playing the ponies." The defense tried futilely to obtain records of the grand jury testimony of Capone's Washington attorney, who admitted in a letter that the gang chief had a four-year income of $260,000. attempt to have Federal Judge James H. Wilkerson subpoena the attorney, Lawrence Mattingly, also failed.

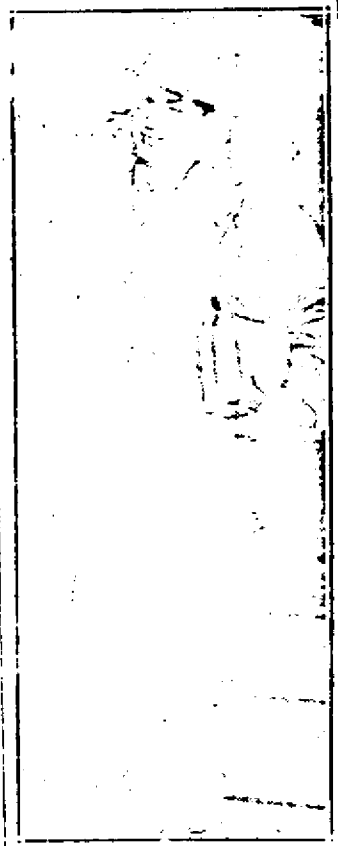
At noon exactly, Defense Atty. Michael Ahern interrupted a complicated legal argument and announced that the defense had rested its case. Few in the court room comprehended that Al Capone's unique defense, that he lost all his money betting on horses that never won, was completed.

Capone Yawns

Philip D'Andrea, Capone bodyguard arrested for carrying a revolver into the court room, was scheduled to appear today before Judge Wilkerson on a contempt of court charge.

Capone yawned as his attorneys argued the complicated legal issues that may decide whether he goes to the penitentiary for a maximum of 32 years and pays $50,000 fine.

Capone Winks



Al Capone, Chicago gang lord, winked at the photographer who snapped his picture, shown above, which was taken after the defense had begun its effort to tear down the government's charges that Capone evaded income tax payments.

Wash. DC. Daily News 10/16/31

69-180 69-180-87X3

JUL 13 1972

XEROXED ORIGINAL-RETAIN

190

Two Attorneys for And Against Capone Waged Court Battle

FOR and AGAINST

Albert Fink, associate counsel in Capone's defense, spoke 2 hours and 38 minutes by way of opening for Al. Fink is a man of perhaps 60 of florid countenance and booming voice. He is rather a big man, who wears a belt and no vest and keeps hitching up his trousers.

Fink said Capone is a victim of a movement to punish him so that "public clamor" may be appeased. He said this trial is a matter that interests not only this generation, but will be of the greatest significance to generations to come. He said:

"The questions involved, gentlemen of the jury, are, first, whether or not there is any evidence—whether, in fact, there is any evidence at all that even rises to the dignity of hearsay evidence.

"The second question is the big question which you are interested in and I am interested in, and other generations are interested in, namely, if there be no evidence of guilt, can a jury be persuaded or 'coaxed' into returning a verdict of guilty so that public clamor may be appeased."

Calls For Proofs

Fink asserted that to prove "willful evasion" of the tax law, the Government must necessarily prove that Capone had a gross income in excess of $5,000, and that there was "evil intent" to evade the tax and that the Government must establish that "willful" failure must be accompanied by intent to defraud.

Fink referred to the sentence of one year that Capone got in Philadelphia for carrying a concealed weapon. He said:

"I don't think if the man's name had been other than Alphonse Capone he would have got a day.

"He was released two months early because of good behavior. He was released on March 17, 1930, two days after his tax was due."

Fink said he classified the evidence into two parts, the testi[illegible]

Samuel G. Clawson, a small, quiet looking man, who spoke in an even, dispassionate tone of voice, made the first argument for the United States of America when court opened this morning. Clawson is an Assistant Attorney General from Washington.

Capone, who was dressed in a light green suit, with socks to match and tan shoes and who seemed particularly dapper this morning, hitched his chair over closer toward the jury box as if he wanted to get a complete earful of the lawyer's remarks.

Rarely Raises Voice

Clawson rarely raised his voice. He attempted no forensics as he outlined the Government's case against Capone. He pointed out that the defendant knew he was guilty because in 1930 he gave Lawrence P. Mattingly, income tax lawyer of Washington, power of attorney to settle the Capone income tax difficulties with the Government.

Clawson went over the conference between Capone, Mattingly and representatives of the income tax department in Chicago at which Capone admitted he kept no books, had no properties, maintained no checking account, and couldn't tell the Government what his income was. Clawson said:

"I think it most significant that at that interview, Mattingly said:

'I doubt if Mr. Capone can give you any detailed information as to his income.'"

Wash. D.C. Herald
10/17/31
INDEXED

69-180

Evidence Attacked

He attacked the evidence of Lester Shumway, former Cicero gambling house employe, one of the witnesses by whom the Government attempted to connect Capone with gambling profits.

"What are these men trying to do? Are they really trying to find this man guilty of tax evasion or are they trying to use this case as an instrument to put Al Capone away? And what are you, the jury, going to do about it?

"You, the jury, are the only bulwark that can resist oppression in times of public clamor. Judges cannot do it. The power hasn't been intrusted to them.

"Don't let yourselves be drawn away from the truth by the claim that Al Capone is a bad man. He may be the worst man that ever lived, but there is not a scintilla of evidence that he willfully attempted to defraud the Government of the income tax as charged in the indictment. Capone may be all the newspapers charge him to be, but if he is, why have not these charges been proven against him?"

Betrayal Is Seen

Fink said that Mattingly betrayed Capone in the famous letter of September 20, 1930. The Washington tax expert was before the grand jury that returned the indictments against Al. Fink said:

"Is not that the most terrible thing you ever heard of, to take a man's lawyer before a Grand Jury about matters transpiring between the lawyer and a client?

"There isn't a man on the jury, not a man in this courtroom, that can truthfully say that Al Capone willfully defrauded his Government because he was penurious or [illegible] kind

Admitted He Owed

Clawson insisted that during the conference at that time Capone admitted that he owed Government income tax for 1926, 1927, 1928, and 1929. He said Capone always carried a roll of $100 and $500 bills—"a roll big enough to choke an ox, as one witness testified."

Al grinned slightly at that statement. Clawson added:

"Yes, when we tried to get from him an idea of his income, we had no help whatever from him. Why, when we asked him if he went under any other name than Capone, he said, 'Oh, no,' yet it has been shown here that he went under the names of Ross, Costa and Phillips."

Clawson scoffed at the contention that Capone lost his income playing the races.

"Even if he did lose heavily on the races, and spent money in other ways, he still had plenty left. Does anybody think that this man did not have a large income? Why the idea is ridiculous. Even a child would know better. He had an income that called for paying to the Government substantial income tax."

Letter Transcript

Clawson read to the jury transcript of the Mattingly letter of September 20, 1930, in which Al's tax income expert admitted that Capone had a taxable income of $266,000 for the years 1926, 1927, 1928 and 1929. He quoted with emphasis from the letter as follows:

"I (Mattingly) am of the opinion that his (Capone's) taxable income for the years 1926 and 1927 might be fairly fixed at not to exceed $26,000 and $40,000 respectively, and for the years 1928 and 1929, not to exceed $100,000 per year."

Clawson said that if a man fails to keep records of his income, as Capone failed, he does so at his own peril. He said that the only tangible evidence concerning Capone's income was contained in the Mattingly letter. He added that if the Mattingly letter be ignored, there would be no way of getting at the income of Capone, "who doesn't want to talk."

"Money, money everywhere—that's all we've been hearing for the past week. Yet Capone had not a dollar for his Government."

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'PRISON? BAH! ME TO FLORIDA,' SCOFFS CAPONE

Convicted Gang Chief Orders Clothes for "Nice Rest" as His Counsel Plans Appeal

By FREDERICK C. OTHMAN

CHICAGO, Oct. 17 (U.P.) Instead of preparing for prison tonight, (Al Scarface) Capone packed up to go to Florida for a "nice, long vacation."

Although he was found guilty of enough income tax fraud charges to assure him a maximum imprisonment of 17 years and a top fine of $50,000; that apparently worried him not at all.

IN COURT TUESDAY

Capone will appear in court Tuesday, when his attorneys will plead with Federal Judge Wilkerson for an arrested judgment. Whether the judge grants it, or whether Capone is sentenced immediately, he plans to leave next weekend for his estate on Palm Island, near Miami Beach.

Should he be sentenced, his lawyers merely will appeal his case and he automatically will be freed on the same $50,000 bond which has kept him out of prison these many months on a contempt charge.

It was learned meanwhile that, while his case was being argued last week, while witnesses were telling about his gambling operations and his almost absurd expenditures for jewels and luxurious motor-cars, Capone even then was exhibiting his contempt for prison threats.

He called in a tailor to make two lightweight suits for use on Florida beaches. When the tailor appeared at gangster headquarters in the notorious Lexington Hotel, Frankie Rio, cohort of Capone, said:

"You don't need to be ordering fancy duds. You're going to prison; why don't you have a suit made with stripes on it?"

Capone replied:

"The hell I am. I'm going to Florida for a nice, long rest and I need some new clothes before I go."

RETURN ASSURED

"Scarface" will leave Chicago, the scene of his rise to illegal millions, via the beer, gambling and vice route, consequently, but eventually he will have to come back, and finally he must go to prison, prosecutors believe.

In addition to the income tax charges, which were settled in compromise fashion by a jury late last night, Capone faces 5,000 seperate beer charges, preferred by Federal authorities.

WASHINGTON HERALD

10/19/31.

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MAIN EDITION

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MASK OFF CAPONE

Former Cashier of Gambling House Links Gangster to Underworld Operations.

$150,000 "TAKE" IN YEAR

Government Presents "Key" Witness Who Helped Send Guzik to Prison.

Kc Star

CASE OF BODYGUARD WAITS

10-13-31

Testimony Tightens Government's Net Around Racketeer for Tax Evasion.

Bulletin.

(By the Associated Press.)

CHICAGO, Oct. 13.—The government completed its testimony late today in the income tax case against Alphonse Capone.

(By the Associated Press.)

CHICAGO, Oct. 13.—The profits of an alleged Capone-owned gambling house were $150,000 in 1927, a former cashier testified in Al Capone's income tax evasion trial today.

Fred Ries said the gangster was a frequent visitor at the gambling house and always went to the private office. The profits were turned over to Jack Guzik, whom Capone had described as his "financial secretary."

Ries is the witness who was sent on a trip to South America to "hide" before the trial started. He was the principal witness in a similar trial which resulted in a 5-year sentence for Jack Guzik.

A Dive Without Competition.

The gambling house of which Ries was cashier was the same one which figured in earlier testimony. Several witnesses who once conducted a raid on the house said Capone met them at the door and announced, "I own the place."

Although it moved frequently, the gambling house was in almost continuous operation in Cicero under various names, such as the "Smoke Shop," the "Subway," the "Ship" and the "Radio."

Ries said it had no competition in the western suburb.

The management was changed in 1927, Ries said. Ralph Capone, brother of the scarfaced gang leader, told the employees "Pete" Penovich had taken charge. Ries testified that the next day Jack Guzik told him (Ries) "not to turn over money to anyone but himself or somebody he sent—not even to Al."

[illegible]

He saw Capone and Guzik talking in

PONE

KC Star 10-13-31

ANG CHIEF'S LEGAL STAFF IS SURPRISED

Additional Time Asked to Prepare Defense in Tax Trial.

[illegible]

gambling [illegible]

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193

[illegible] The public were turned over [illegible]

[illegible] principal witness in a suit which resulted in a 5-year sentence for Jack Guzik.

A Dove Without Competition.

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Busy Day for Capone.

Ries is a tall, thin man with a sharp nose and a bald head. He looked directly ahead as he answered the government's questions, never glancing at the defendant, who was busy conferring with his attorneys.

In January, 1927, the witness said he saw Capone and Guzik talking in the telegraph operator's room, to which the general public was not admitted.

The "bank roll" which the house kept always on hand was $10,000, Ries said. After deducting the day's expenses, the witness said, he would take the profits to a bank, have a cashier's check made out to himself under an assumed name, sign it and then give it to Guzik or one of his men.

The government introduced as exhibits a batch of these cashier's checks, most of them for $5,000, and one made out to "Al Capone."

The case of Philip D'Andrea, who considered it necessary to guard Capone with a pistol in federal court, was today continued until Friday by Judge James H. Wilkerson, who committed Bodkofsky and at length on the attempt charge. D'Andrea was returned to the jail cell he has occupied since Saturday, without bond.

Edward Waters, a former revenue agent, told of interviewing Capone in either 1925 or 1926 regarding income tax matters, but he insisted that "my brain is not an adding machine" and he could recall nothing of the conversation.

Judge Takes a Hand.

Judge Wilkerson questioned Waters about his lapse of memory, and the defense attorneys called him back after he had been excused from the stand to testify he had not discussed the case with defense attorneys or anyone connected with Capone.

[illegible] he talked to Capone [illegible] asking the gangster about a newspaper story which said Capone had lost 1 million dollars of [illegible]

[illegible] who identified [illegible] of good [illegible]

194

S CITY STAR)

ity Times.

Kansas City Times 10-14-31

DNESDAY—20 PAGES. PRICE: In Kansas City..1 Cents Elsewhere.....1 Cents

APONE, SIDE NOW

Government Gives the Gangster a Jolt by Suddenly Completing Its Case.

DEFENSE DELAY DENIED

The Court Tells Al's Counsel to Be Ready at 10 o'Clock This Morning.

MAY OFFER NO WITNESSES

However, It Is Hinted That Several Gangsters Will Be Put on Stand.

(By The Star's Leased Wire Service.)

CHICAGO, Oct. 13.—Al Capone's income tax evasion trial moved swiftly and dramatically toward its conclusion today.

After five government witnesses had been heard before the jury in Judge James H. Wilkerson's courtroom, the prosecution suddenly closed at 2:30 o'clock in the afternoon.

The defense, caught by surprise and unprepared to put on a case, pleaded for delay, which was granted until 10 o'clock tomorrow morning. A motion for a directed verdict for the defendant was overruled by the court, and was considered so hopeless by the Capone attorneys that they did not even argue it.

May Be No Witnesses.

Whether witnesses would be presented tomorrow in Capone's behalf was uncertain tonight. In his plea for several days' delay to permit the defense to get witnesses from Washington, New York and elsewhere, Albert Fink said that if this was denied there might be no evidence offered in the case. The long delay was denied, but Michael Ahern, associate defense counsel, said several gambler witnesses from Chicago probably would be put on the stand.

The only indication of the nature of the defense was given in the disclosure by Capone's attorneys that the witnesses in mind were gamblers.

It has been their contention throughout the trial that while Capone was a gambler, that it has not been shown that he was in the gam-[illegible]

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The only indication of the nature of the defense was given in the disclosure by Capone's attorneys that the witnesses in mind were gamblers.

It has been their contention throughout the trial that while Capone was a gambler, that it has not been shown that he was in the gambling business, in the sense that he owned an institution which made profits upon which the government had a right to share in the way of taxable income.

Jury May Get It Thursday.

Long arguments are in store for the jury. Fink said it was such an important case in his estimation that he wanted to talk ten hours about it. Ahern also intends to talk. And there are four government attorneys ready to talk. The prospect is that the time will be limited to about four hours on each side, thus ending the case sometime on Thursday.

The government closed its case without putting Johnny Torrio or any other notorious gangsters on the stand. They fixed this policy at a monday conference and it was George E. G. Johnson, United States district attorney, in person who announced the decision of the prosecution in the first words he has spoken in court since the trial began.

There was a surprised huddle of attorneys in front of the judge's bench, and Capone leaned forward, drinking in every word, while the jury was absent from the room.

Fink complained he had never had the proper time to prepare a defense as the government had never given him a bill of particulars or disclosed the nature of the evidence against the defendant until the trial had developed it. He wanted a "few days" to prepare.

But 10 A. M. Is the Limit.

The judge said that 10 o'clock tomorrow morning would be all he could grant. Ahern asserted there had been no proof of income shown by the government.

"Of course, if you felt that way there is very little to the case against the defendant," said the court, smilingly.

Ahern then said the defense might want to put in proof on losses. Fink said he had an important witness in New York "on the question of losses sustained by the defendant in the operation of the only business which has been claimed in this case." Another witness was in Philadelphia, another in Washington, maybe.

"Well," said Fink in some heat, "if you gentlemen think it fair to put this case by adjourn at 10 a. m. tomorrow, [illegible] all do the best I can."

[illegible] protest, "now we [illegible]" and the court finally [illegible] that been shown [illegible] could not go on [illegible]

Judge Merrill E. Otis's decis finding the Ukiah Grape Produ Company guilty of violating the prohibition laws "goes for the wine bricks, too," according to Thomas J. Layson, an assistant United States district attorney.

The "wine brick" product, which is offered as potential nucleus for wine with a "real kick" after certain processes have been carried on by the purchaser, is backed by interests that have retained Mabel Walker Willebrandt, formerly an assistant United States attorney general in charge of prohibition enforcement.

"If Ukiah is guilty, then the wine bricks also are illegal and contraband," Mr. Layson, who handled the government's case in the Ukiah prosecution, asserted.

RANTS TO SAVE CAPONE

BNEERS AND ORATORY MAKE UP DEFENSE ANSWER TO EVIDENCE.

Counsel Paints Hoodlum as Citizen Persecuted for Public and Calls on Jury to Uphold "Constitution."

(By the Associated Press.)

CHICAGO, Oct. 16.—The government was charged by Al Capone's attorneys today with attempting to convict the gangster on charges of violating income tax laws "only to appease and respond to public clamor."

Albert Fink, pleading the gang chief's case in final arguments before a federal jury, said the "big question" to be decided was whether a jury could be "persuaded and conned" into returning a verdict of guilty, without sufficient evidence, but to satisfy the "supposed public excitement."

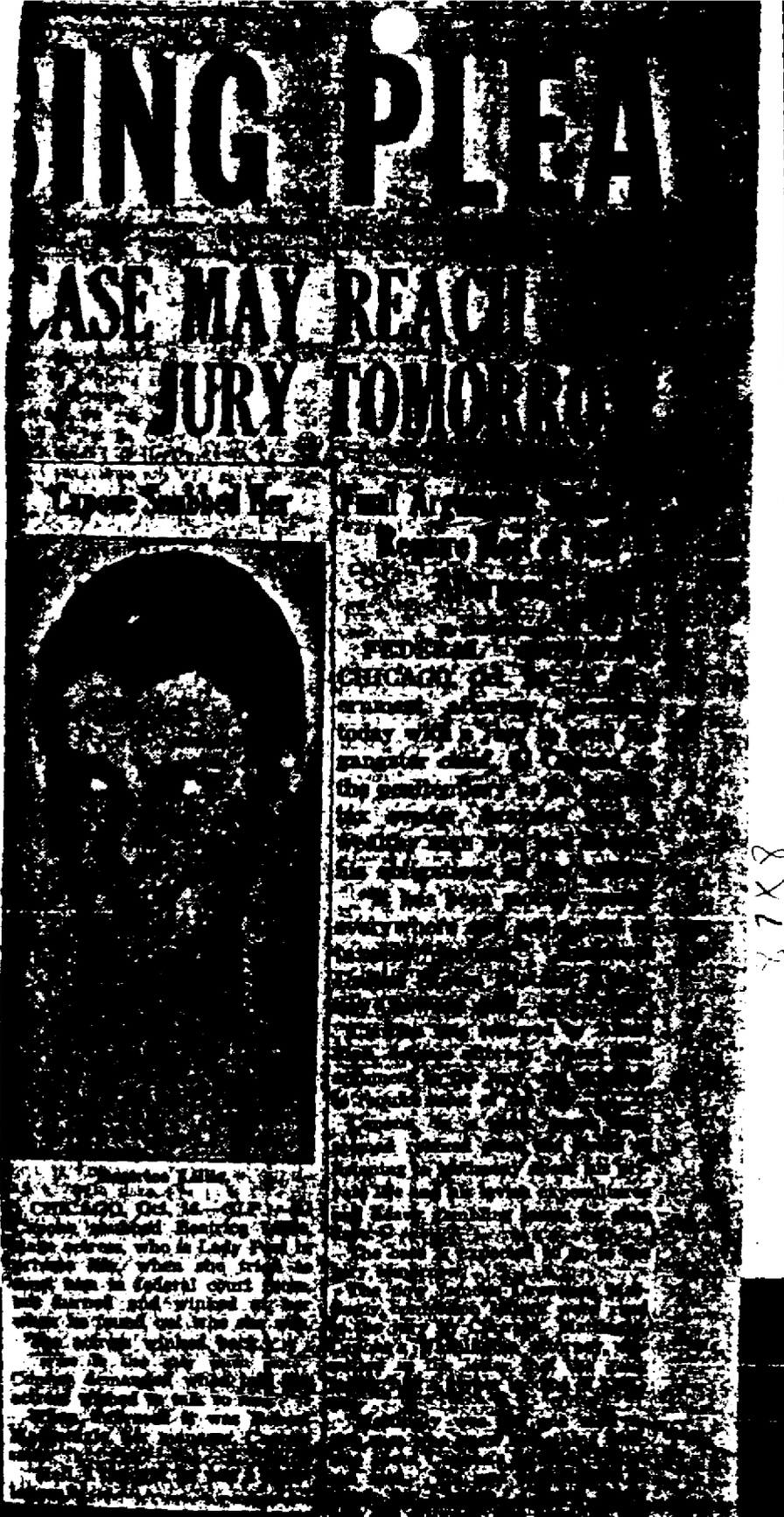
[illegible] "FOR ANNIHILATION."

"This is the question which interests not only this community and this generation, but future generations as well," Fink said.

The jury had just listened to government prosecutors say "not even a child" could doubt that Capone had a huge income and that the evidence left no doubt that he had tried to conceal his income and evade taxes.

Fink told the twelve men, most of them farmers and elderly business men, that he did not need to "waste much time on the evidence," which he said did not even rise to the "dignity of hearsay evidence of guilt." He dismissed the fact "the presumption of innocence is affirmative evidence in favor of the accused."

Capone was pictured by Fink as a citizen who made "unusually vigorous" attempts in 1929 to pay his income tax. Such conduct, the attorney said, [illegible] the [illegible] of being [illegible]



CHICAGO, Oct. 16.—(U.P.)—[illegible] Beatrice [illegible] actress, who is Lady [illegible] sister, when she tried to [illegible] him in federal court today [illegible] and winked at her [illegible] when he found out who she was. [illegible]

[illegible] way, the, he did not need to "waste much time on the evidence," which he said did not even rise to the "dignity of hearsay evidence of guilt." He stressed the fact "the presumption of innocence is affirmative evidence in favor of the accused."

Capone was pictured by Fink as a citizen who made "unusually vigorous" attempts in 1930 to pay his income tax. Such conduct, the attorney said, make unreasonable the charge against him of being guilty of a "willful failure to file an income tax return, with intent to defraud the government."

A JAIL AT PHILADELPHIA.

"In 1929 Capone was put in a Philadelphia jail for carrying a revolver," Fink said. "Guns probably never were carried in Philadelphia before and they probably wouldn't arrest anybody but Alphonse Capone for it, anyway.

"March 17, 1930, two days after his income tax report was due, he immediately took steps to get in his report, even got an attorney to help him. Some of the statements made by that attorney to the government investigators were used as evidence against Capone in this trial."

The attorney to whom Fink referred was Lawrence P. Mattingly, who wrote a letter to the internal revenue department estimating Capone had an income of $100,000 a year in 1928 and 1929.

MAKES LIGHT OF A POINT.

Fink read from the court records that Mattingly's letter was dated March 23, 1930, six days after the gangster's release from prison. He derided a statement by the government that Johnny Torrio, Capone's predecessor as Chicago's gang chief, aided Capone in obtaining information concerning income tax matters.

"The government would have you believe," Fink said, "that Capone went to Torrio's home in New York directly on his release, conferred with him, and received the suggestion that Mattingly be retained to assist him. Capone returned immediately to Chicago from Philadelphia. Anyway, why should the fact that Mattingly also was Torrio's attorney mean anything to us?"

Explaining there are twenty-four separate counts in the indictment, the attorney told the jury, "You are not obligated to return a verdict of guilty on all counts, even though you [illegible] convinced he was guilty on [illegible]

[illegible] "Oppression."

[illegible] today presenting this [illegible] as an attempt to evade [illegible] and defraud the government," [illegible] shouted, "or did they just using [illegible] in an attempt to stow [illegible] Capone for a day or two? [illegible] politicians are the bulwark that [illegible] such oppression in these [illegible]

[illegible] veteran criminal lawyer, shaking [illegible] of the dozen federal [illegible] investigators, warned [illegible] "Don't let yourself be [illegible] from your duty by a [illegible] Capone's a bad man and [illegible]

[illegible]

122

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CRIME

"Who Wouldn't Be Worried?"

Flashlamps fazed in Chicago's crowded Federal Court last week. Guards banged shut the doors. Beginning was the decisive battle in the Federal Government's long campaign to put Alphonse "Scarface" to strangers, "Snorkey" to friends, Capone *in prison*. For three years the Government had waged its campaign, spent over $495,000 on it. For almost as long Gangster Capone had been trying to sidestep charges that he failed to pay a Federal tax on $1,038,654 income during the years 1924–29. Now Scarface Snorkey was on trial.

The Judge was bushy-browed James Herbert Wilkerson, no friend of Capone. It was he who, two months ago, exposed and repudiated a "deal" between prosecuting and defense attorneys whereby *Capone was to plead* guilty to tax evasion in return for a recommendation that he be given a light sentence. In court *Capone's attorney* had asserted that the agreement was approved by Attorney General Mitchell and "an Assistant Secretary of the Treasury." In Washington the Department of Justice had admitted approving this deal, insisted the procedure was *customary*. Undersecretary of the Treasury Ogden Livingston Mills had denied knowing anything about it. Judge Wilkerson had upset the plans by declaring: "The court will listen to recommendations, but it is utterly *impossible to* bargain with a Federal court." Then he had allowed frightened Capone to change his plea to not guilty, had sought—*and failed*—to have a grand jury indict him under the Jones ("5 & 10") Law for violation of the Volstead Act (TIME, Sept. *21 et ante*). Leaving off his judicial robes, Judge Wilkerson leaned over his desk in a business suit, showed that he took more than a passing interest in the case.

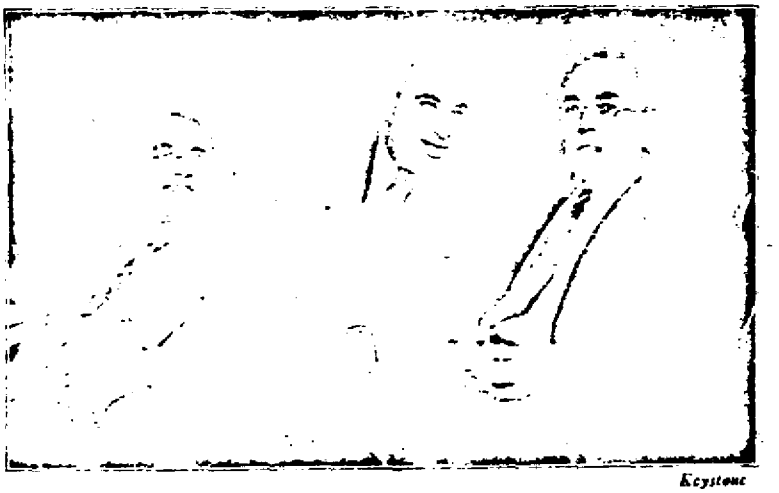
The Defendant was sweating, uncomfortable. For the second time in his life he was uncertain of "beating the rap" (staying out of jail).* If convicted he might be sentenced to 32 years in the penitentiary, fined $50,000. Before him he had the example of his brother Ralph ("Bottles") Capone, who had been sentenced to three years in Leavenworth on a similar charge (but had obtained a stay of mandate until Oct. 20 to file an appeal).

Jack Gusick, a Capone lieutenant, had been given five years in prison; other important gangsters were behind the bars. Sighed Scarface Snorkey:

"Who wouldn't be worried?"

The Prosecution was headed by soft-spoken, wild-haired U. S. District Attorney George Emmerson Q (for nothing) Johnson. Field marshal of the Government's forces seeking to break up gang rule by the left-handed method of jailing gangsters for tax evasion, his success would be measured by his ability to dispose of Capone. Frankly disappointed when the "deal" fell through, he was now excited, eager, mysterious. So far he had kept secret the list of his "surprise" witnesses.

The Defense had wanted that list. Long had adroit Lawyer Michael Ahern protected Capone's legal interests, kept him out of serious trouble (TIME, Sept. *21*). He, too, had been disappointed when his client had to stand trial. Well he realized that this was his hardest case. To assist him he had owlish Albert Fink, whose jovial voice was frequently heard exclaiming: "Oh, my conscience!" Mr. Ahern was irascible, objected to *crowding by*.



Keystone

COUNSEL AHERN, CLIENT CAPONE, COUNSEL FINK

Mr. Fink: "Oh, my conscience! Nailed to the cross!"

The Press, which was having a field day. Local papers covered the trial from all angles; out-of-town papers sent special writers. Hearstpapers, evidently considering it a better spectacle than the World Series (see p. 22), sent Colyumist Damon Runyon, who began by interviewing Capone in the grandest manner: "I found Al Capone at Colosimo's restaurant. . . ." Other newshawks reported the details of Capone's attire from tie (blue-striped) to fedora (white), noted the fact when he changed his suit (blue to grey). Gaudiest phrase of the trial was coined by the New York *Evening Post's* correspondent, Michael W. Straus, who referred to Cicero's gambling houses as "gold-belching pits of evil." The Press soon became interested in

The Jury: one farmer, two retired mer-

*First time was in 1929 when Capone was tried and convicted in Philadelphia for carrying a pistol. He spent ten months in jail, his only prison term to date. But underworld legend says he went to jail that time on purpose, to avoid being assassinated in Chicago.

TIME Magazine

10/19/31

69-180-87X9

page 1.

69-150

JUL 28 1972

199

chants, a country grocer, two painters, a real estate dealer, an insurance salesman, a clerk, a lubricating engineer, an abstractor, a wood patternmaker out of a job. All were more than 45; all but one were rustic. Mr. Ahern did not like the jury. Judge Wilkerson stated: "Nothing is to be decided except whether this man evaded and attempted to defeat these taxes." He overruled most of Capone's objections, quickly filled the box. Most of the jury immediately began to show signs of sleepiness. The grocer, A. E. Maether of Prairie View, alone was all attention.

For the Prosecution, first star witness was Rev. Henry P. Hoover, Congregationalist minister of Berwyn, Chicago suburb. He knew a good deal about the "gold-belching pits of evil." As a member of the Western Suburban Ministers' Association he took part in a raid in 1925 on a Cicero gambling house. Telling about it, Minister Hoover's eyes flashed, his tight lips bit off his words: "I looked behind the partition and I saw this man [Capone] taking money from the till. He was stuffing it in his pockets. Someone . . . said: 'Who is this man?' and he said: 'Al Brown. Is that good enough for you?' Then Mr. Capone said: 'Why are you fellows always picking on me? . . . Reverend,' he said, 'why can't you and I get together?' I said: 'What do you mean?' He answered: 'If you'll let up on me here in Cicero I will withdraw from Stickney.'"

Scarface Snorkey snorted, as though everybody must know he had never used a two-syllable word where a one-syllable word would do.

Chester Bragg, another raider, said Capone had broken into a place while it was being raided. "I asked him: 'What the hell do you think this is, a party?' and he said, 'I'm the owner of the place.'" Immediately after the raid Raider Bragg's nose was broken with a blackjack.

The Government, considering Capone's ownership of gambling houses proved, set out to show how he had spent the returns, holding that large expenditures would prove the existence of a taxable income. While Snorkey dug a stubby forefinger into his right ear, letters were read from Lawrence P. Mattingly, Washington income tax attorney retained by Capone in 1930, to show that Capone offered to compromise with the Government and pay a delinquent tax on $215,000 for the years 1926–29. Capone, the letters showed, got one-sixth of the income from his syndicate's operations. As the letters were read over the strenuous objections of Snorkey's attorneys, who maintained a lawyer could not "confess" for his client, Attorney Fink heaved a sigh. "Oh, my conscience!" he sighed. "They've got him nailed to the cross now!"

Witnesses from Florida said Capone had spent $40,000 for his Palm Island home, $100,000 to improve it, swore to a $6,500 meat bill, a $2,085 hotel bill, a $1,000 telephone bill, asserted he distributed $5 tips and spent thousands of dollars on cakes and macaroni. Prize Miami witness was one H. F. Ryder, a garrulous carpenter whose $1,011 bill had been paid by "Mr. Al—Mr. Capone—the gentleman there." Witness Ryder said Capone's friends "gave me a sandwich sometimes," thought "Mr. Al was a mighty fine man," even though he still owed him $125. He told of being paid $250 from "a roll that would choke an ox"—as big as Judge Wilkerson's fist. "There were money wrappers by the handful around the place. All marked $1,000."

Scarface Snorkey had grown glummer & glummer, angrier & angrier. He scowled at Carpenter Ryder, whispered with his lawyers, mopped his brow. The jury had waked up, was following the testimony with wide eyed interest. Leaving the courtroom one day Snorkey and his bodyguard, Philip D'Andrea, brushed aside Federal Judge Walter C. Lindley to get into an elevator. Two days later D'Andrea was arrested, searched in the corridor by Secret Service men before gaping policemen, charged with carrying a concealed weapon (.38 calibre revolver). D'Andrea showed a badge reading "Deputy Bailiff of the Municipal Court," was told it was no good. Capone rivals began a war of succession, killed one James L. Quigley, minor gangster.

TIME

10/19/31

page 2.

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CAPONE'S ARREST OF JUDGMENT HEARING DELAYED

Motion Scheduled to Come Up Tomorrow Is Continued Until Friday.

By the Associated Press.

CHICAGO October 18.—Federal Judge James H. Wilkerson today granted counsel for "Scarface Al" Capone a continuance until Friday on the hearing of their motion for an arrest of judgment in his recent conviction for income tax violations. It was to have been heard tomorrow.

The next move in Capone's fight to keep out of the penitentiary as an income tax violator is up to the gang chief himself, and his attorneys have indicated it will be a motion for a new trial.

The maximum sentence for the scar-faced gangster, who has bossed Chicago's underworld for 12 years, is 17 years' imprisonment and fines totaling $50,000. The high sentence could be given out in the specified gangster-income tax cases, however, if five years against Jack Guzik, Capone's No. 2 lieutenant.

The jury found Capone guilty on five of the 23 counts in two indictments charging him with income tax evasion. Defense attorneys said that in the jury's rejection of the other counts are "unusually good grounds for appeal."

Calls Verdict Conflicting.

Attorney Albert Fink for the defense said he believed the verdict to be "conflicting" and that Capone should have been acquitted on all the counts. He was denied a motion for an arrested verdict immediately after the verdict was announced, but indicated he will renew the motion today.

The jurors found Capone guilty of evasion of taxes during 1925, 1926 and 1927, and also convicted him of failure to file tax returns in 1926 and 1929. The charges in the first three years constitute felonies and in the later years misdemeanors.

Legal authorities said that if Capone's attorneys desire to take the case into the higher courts they could delay his entrance into prison for two years, even if in the end the verdict is sustained. Such delay has occurred in income tax cases against other gangsters, including Capone's older brother, Ralph, they pointed out.

Capone appeared to be not displeased with the verdict. He rushed from the headquarters of the Lexington hotel to the court room when informed the jury had reached a verdict and appeared to find enjoyment in the attorneys' statements immediately after it was returned.

He smiled broadly when Assistant

(Continued on Page 2, Column 1.)

CAPONE'S ARREST OF JUDGMENT MOTION TO COME UP FRIDAY

(Continued From First Page.)

United States Attorney Jacob I. Grossman said he believed the verdict might be "inconsistent." After Grossman had conferred with his colleagues and announced the verdict acceptable to the Government, he immediately started out of the court room.

The "inconsistency" apparently referred to the fact that Capone was being convicted of failure to file a tax return in 1928 and 1929, but not of income tax evasion for that year. It was recalled, however, that he was in a Philadelphia jail for carrying a concealed weapon during most of 1929.

Even should the gang chief escape prison on the income charges, however, he still is in serious trouble with the Federal Government. Another indictment charges him with liquor conspiracy and cites 5,000 separate violations.

Judge Wilkerson already has sentenced him to six months in jail for contempt of court, resulting from the gangster's failure to answer promptly a summons to appear before a grand jury. Capone claims he was ill at the time and has appealed the sentence, but the Government charges he was attending horse races and prize fights daily.

If Capone remains out of prison for two years, it was pointed out today, Chicago gangdom will not lack for a capable leader. Even though Capone does enter a cell in 1933, Frank Nitti, his business manager, would have completed serving an income tax sentence at that time and would be ready to assume Capone's dictatorship.

Capone is the seventh Chicago gangster to be charged by the Government with income tax violations. All the other cases have resulted in either convictions or guilty pleas.

Philip D'Andrea, Capone's bodyguard during the trial, went back to a cell for three more days after his counsel asked Judge Wilkerson for extended time to prepare a motion for dismissal of the contempt action against him.

D'Andrea has been in Federal custody since the Capone trial session of October 1, when he was found carrying a pistol as he left the court room. He was cited by Judge Wilkerson to show cause why he was not in contempt of court.

NOT RECORDED
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Washington D.C. Star
10/19/31

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Capone has so often been an easy victor that he may have been a little careless about getting into a new kind of a fight.

Capone's Conviction.

Conviction in Chicago of Alphonse Capone of violation of the Federal income tax law may perhaps be viewed as a "triumph of justice," in that it is a step toward the imprisonment of a man who has defied the laws brazenly and brutally, and has lived by crime and grown rich by murderous banditry. But it is none the less a sad reflection upon the State and the city in which he has practiced his thieving, murderous profession. It is a travesty upon the law that apparently the only way in which this marauder, gang leader, assassin by proxy, racketeer and blackmailer can be reached for punishment is through the technicality of trifling with the statute which requires a statement of income for purposes of taxation.

Capone's guilt of the charge brought against him in this case was virtually confessed in his unsuccessful efforts to "adjust" his taxes. The fact that he enjoyed an enormous revenue from his various crooked and criminal enterprises was patent and there was no dispute as to his failure to make return to the Government. Yet even in this trial, which seemed to be merely a formality, effort was impudently made to deny that the revenue was "legitimate," on the ground that it was from gambling and furthermore that a great part of it was squandered in losing bets on the horses. Now Capone's attorneys are making a motion to set aside the verdict on the ground of inconsistency—based upon the fact that he was acquitted of some of the charges but convicted of others of a similar nature—and when this motion is denied, as it presumably will be, they will urge an appeal and so endeavor to prolong the case, leaving the hideous creature at liberty for an indefinite period, leering and grinning at the law in contemptuous defiance.

The shame is that Chicago has not caught this brigand in its own legal net and long since sent him to his deserved punishment. The shame is that the State of Illinois has not handled the case of a common felon. The shame is that the law has failed utterly to cope with the creature whose hirelings have slain and robbed and mutilated offenders against his own bandit rule. No matter how satisfactory will be the eventual incarceration of Capone in a Federal prison for the failure to make an income tax return, as a technical means to the end of getting him in jail, there will remain the sense that the law has failed.

Washington DC Star 10/19/31

NOT RECORDED

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JUDGE DELAYS CAPONE'S TRIP TO MIAMI HOME

Wilkerson Defers Gang Chief's Next Appearance in Court; Bodyguard Returns to Jail

By FREDERICK C. OTHMAN

CHICAGO, Oct. 19 (U.P.) Federal Judge James H. Wilkerson ruined Alphonse Capone's Florida vacation plans today by deferring until Friday the gang chief's next appearance in the court where he was convicted of evading the income tax.

Judge Wilkerson also sent back to jail Capone's chief bodyguard, Frank Rio, who had [illegible] in the Federal court a week ago with an automatic revolver under his left armpit.

HUNT STILL ON

[illegible] Capone learned that the Government still is pressing its hunt for his tangible assets to satisfy the $215,000 tax bill the Department of Internal Revenue holds against him.

[illegible] have to go to prison [illegible] for a maximum of 11 years [illegible] to pay a possible fine of $50,000, said prosecutors, but he also will have to settle the tax bill that Uncle Sam so far hasn't been able to collect.

The Government would like to get the $215,000 in cash, but if that's not forthcoming, then Capone's property will do just as well.

His property includes, according to evidence last week at his trial, some extra fine suits of silk underwear, a Chinese rug, two score vivid neckties, some jade elephants, three custom-built automobiles, with bullet-proof windows, and about a dozen overcoats, all equipped with "extra large right pockets."

MAY GRAB MANSION

If the Government agents impound all that property and find that it's not worth enough to pay Capone's tax bill, they hope to confiscate his $40,000 mansion at Palm Island, near Miami Beach, Fla. If that's still not enough, then they plan to investigate further his investment in breweries, distilleries and gambling houses. A fair to middling roulette wheel, it develops, is worth $2,500 itself.

Capone was worrying about all that while he went ahead with his packing in anticipation of leaving immediately for his Florida estate.

He had believed the judge would sentence him to prison tomorrow, whereupon he would have appealed, obtained his release on bond, and left at once for the South. But the judge deferred the sentencing until Friday, upon request of defense Attorney Michael Ahern.

The Washington DC Herald

10/20/31

NOT RECORDED

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B00

Another Shattered Idol

The recent "unveiling" of Al Capone in the Federal Court in Chicago must have been a shock to those who pictured "Public Enemy No. 1" as a bold, bad man, rough and tough to the core.

The city and State governments of Chicago and Illinois had never been able to penetrate the outer layer of the famous sportsman, but the Federal Government authorities went right down to Capone's skin—and next to it they found dainty garments of pink silk.

Imagine the consternation and amazement of the vice lord's tough followers when the Federal authorities removed—figuratively, of course—Capone's $150 suit, his expensively monogrammed shirt, unhooked his $275 belt buckle and left the mighty czar of Cicero standing in a court room arrayed in his costly pink fripperies.

For this had his cohorts struggled, for this had they faced the machine guns and shot gun fire; for this had they run whiskey and beer.

Another idol tottered and fell when those intimacies were revealed.

Washington Times
Oct 19, 1931

204

PATRONS ARE REQUESTED TO FAVOR THE COMPANY BY CRITICISM AND SUGGESTION CONCERNING ITS SERVICE

CLASS OF SERVICE

This is a full-rate Telegram or Cablegram unless its deferred character is indicated by a suitable sign above or preceding the address.

WESTERN UNION

NEWCOMB CARLTON, PRESIDENT — A. C. WILLEVER, FIRST VICE-PRESIDENT

SIGNS
DL = Day Letter
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1931 OCT 15 PM 5 29

CC698 32 GOVT COLLECT=WB CHICAGO ILL 15 514P

DIRECTOR OF INVESTIGATION DEPT OF JUSTICE=

WASHINGTON DC=

AGENT BRENNAN PROCEEDING SPRINGFIELD ILLINOIS TONIGHT RESPONSE SUBPOENA STOP AS EVIDENCE CAPONE CASE CONCLUDED BELIEVE FURTHER PRESENCE BRENNAN HERE UNNECESSARY STOP UNLESS ADVISED CONTRARY WILL INSTRUCT BRENNAN PROCEED STLOUIS FROM SPRINGFIELD=

MCSWAIN.

69-180 69-180-88

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OCT 17 1931

WESTERN UNION MESSENGERS ARE AVAILABLE FOR THE DELIVERY OF NOTES AND MESSAGES

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JUL 18 1972

XEROXED ORIGINAL-RETAIN

U. S. Department of Justice

Bureau of Investigation

P.O. Box 1405,
Chicago, Illinois

October 19, 1931.

PERSONAL AND CONFIDENTIAL

Director,
Bureau of Investigation,
Department of Justice,
Washington, D.C.

Dear Sir:

Supplementing my communication of October 6, 1931, relative to two witnesses, namely Charles Clarke and Raymond Brown, who voluntarily appeared and testified in connection with the case entitled "Alphonse Capone, Contempt of Court", but who were never contacted by Special Agents of the Bureau of Investigation, please be advised that a transcript of the record reveals the following data:

Charles W. Clarke testified that he is a Special Agent of the Intelligence Unit, U.S. Treasury Department, and that on February 27, 1929, he accompanied Deputy U.S. Marshal Cooper when the latter served upon subject Capone a Grand Jury subpoena, calling for Capone's appearance at Chicago, Illinois, on March 12, 1931.

Raymond F. Brown testified that he is a Special Attorney in the Bureau of Internal Revenue at Miami, Florida, and that on February 27, 1929, he saw subject Alphonse Capone at the Sharkey-Stribling prize fight at Miami Beach, Florida.

The above confirms the original statement of Special Assistant to the Attorney General William Froelich, who stated as set forth in my letter of October 6, 1931, that the testimony of the above two witnesses was rather immaterial, and at best only cumulative.

Very truly yours,

[illegible] Swain,
Special Agent in Charge.

WAS/cec

69-19

Postal Telegraph

THE NATIONAL SYSTEM

ALL AMERICAN CABLES — COMMERCIAL CABLES

DL	Day Letter
NL	Night Letter
Msg	Night Message
Cpd	Deferred Cable
NLT	Night Cable Letter
WLT	Week End Cable Letter

62

STANDARD TIME INDICATED ON THIS MESSAGE

CB385 139 NL COLLECT

1931 DEC 3 PM 6 58

BQ CHICAGO ILL 3

RECORDED

69-7180-90

BUREAU OF INVESTIGATION

DEC 5 A.M.

DIRECTOR

BUREAU OF INVESTIGATION DEPT OF JUSTICE WASHINGTON DC

FEDERAL JUDGE WILKERSON HANDED ME FOR APPROPRIATE ATTENTION TELEGRAM DATED DECEMBER SECOND CHICAGO ADDRESSED TO WILKERSON READING QUOTE WISH TO INFORM YOU THAT AL CAPONE IS USING THE COUNTY JAIL FOR HIS LIQUOR BUSINESS AND TRANSACTS FROM THERE POSSIBLY AS MUCH IF NOT MORE THAN HE USED TO AT HIS OLD HEADQUARTERS AT THE LEXINGTON HOTEL HIS VISITORS SEEM TO BE

JUSTICE

FILE

Mr Youngquist

12/4/31

MAR

Postal Telegraph

B385/2 CHGO DIRECT BUR OF INVESTIGATION WASHN DC

1931 DEC 3 P

COMING ALL DAY LONG AS WELL AS IN THE EVENING I AM EMPLOYED AT
THIS BRANCH OF SERVICE AND CANNOT UNDERSTAND WHY EVERY PRIVILEGE
IS EXTENDED TO HIM AND NONE TO THE OTHERS PLEASE INVESTIGATE UNQUOTE
SIGNED A STOP CAPONE NOT COMMITTED TO COOK COUNTY JAIL BUT
REMANDED BY JUDGE TO CUSTODY MARSHALL ACCORDINGLY JUDGE WILKERSON
QUESTIONS WHETHER CONTEMPT PRESENT IF ALLEGATIONS TRUE STOP WILKERSON
PRINCIPALLY DESIRES CONDITIONS REMEDIED IF ALLEGED LIBERTIES BEING
GRANTED STOP PLEASE INSTRUCT

MCSWAIN.

8

[redacted]

December 4, 1931.

69-788-90

RECORDED

MEMORANDUM FOR ASSISTANT ATTORNEY GENERAL [redacted]

[redacted]

[redacted] am transmitting, attached hereto, a copy of a [redacted] received from this Bureau's Special Agent in Charge at [redacted], Illinois. It will be noted that this refers to illegal [redacted] activities on the part of [redacted].

Your attention is invited to Judge [redacted]'s expression of views reflecting the possibility that [redacted]'s alleged actions may not constitute contempt of court.

Will you please advise me promptly if you believe this Bureau should act in this matter and, if so, the extent of the action to be taken.

Very truly yours,

[redacted]

Encl. 746286.

09

19-188-80

[illegible] RECORDED

[illegible]
BUREAU OF INVESTIGATION
DEPARTMENT OF JUSTICE
[illegible] BARKER BUILDING
CHICAGO ILLINOIS

[illegible] WILL BE AUTHORIZED MAKE INVESTIGATION [illegible] MATTER [illegible]

JUDGE BUT SHOULD CONFER WITH UNITED STATES ATTORNEY [illegible]

[illegible] EDGAR HOOVER, DIRECTOR

DEC 7 1930

19-180

RECEIVED
BUREAU OF INVESTIGATION
DIV. 2
DEPARTMENT OF JUSTICE

BUREAU OF INVESTIGATION
DEC 5 A.M.
DEPARTMENT OF JUSTICE

FILE

Bureau of Investigation

From: Division Two Room 422

Oct. 26 1931

To: ___Director.
___Mr. Nathan.
___Mr. Tolson.
___Chief, Div. 3.
___Chief, Div. 4.
___Chief, Div. 5.
___Chief, Div. 6.
___Chief, Div. 7.
✓ Chief, Div. 8.
___Miss Gandy.
___Personnel Files.
___Bureau Files.
___Mr.

Time Magazine
Oct. 26, 1931

T. F. Baughman.

Time 10/26/31

CRIME

Capone & Caponies

Alphonse Capone cocked one blue-clad leg over another blue-clad leg in Chicago's Federal Court last week, and every newshawk in the courtroom* gasped in amazement. Snorkey wore no garters.

As acutely sensitive to Snorkey Capone's sartorial condition as the newshawks were: the jury that was trying him for attempting to evade payment of a $215,000 Federal Tax on $1,038,000 income from 1924 to 1929; Judge James Herbert Wilkerson; Prosecutor George Emmerson Q. Johnson; Defense Attorneys Michael Ahern and Albert Fink. After hearing Snorkey linked to Cicero gambling houses ("gold-belching pits of evil" to eloquent Michael Straus of the New York *Evening Post*) and hearing accounts of lavish personal and household expenditures in Florida (TIME, Oct. 19) the judge, the jury and the reporters had been treated to a detailed description of the rich raiment in which Gangster Capone clothed himself. Eleven rustic jurors and one from the city had listened, gaping, to witnesses who told about the $135 suits he bought by the half-dozen, the $27.50 shirts ordered by the dozen, the $20 hats & shoes, $150 overcoats, the 30 diamond belt buckles for which he had paid $275 each.

The newshawks looked temporarily baffled, then went out and began writing stories about who would succeed Snorkey as gang chief. Consensus was that it would be cocky, sleek-haired Hymie Levin, not his quieter lieutenant, Murray Humphries. Editor Jack Leach of *The Daily Northwestern*, student paper at Northwestern University, published an editorial entitled "Get This, Capone," warning Snorkey not to attend any more football games.

Next move for the prosecution was to call bald, be-spectacled Fred Ries, who testified he handled the finances of four Cicero gambling houses, gave the checks to wizened little Bobby Barton, chauffeur for Jack Gusick, Capone's "financial secretary." Barton, known as "The Little Man," did not testify, but kept popping in & out of court to be identified. Snorkey seemed interested in Ries's testimony, caused spectators to recall gossip that gangsters were looking for him since he helped to get Gusick a five-year sentence. A handwriting expert identified Capone's signature on one of the checks Ries said were gambling profits. Up jumped Prosecutor Johnson, spoke his first words of the trial:*

"The Government rests."

The Defense was not ready. Sadly, indignantly Lawyer Fink protested that it was unfair to give him no warning. Judge Wilkerson was unimpressed, said the defense would have to be ready by 10 a. m. next day.

By 10 a. m. Lawyers Ahern & Fink had assembled eight bookmakers with shiny shoes. To them Snorkey was no smart gambler. One William Yario said Snorkey had lost some $50,000 in two years to him. Bookie Sam Gitelson thought his profits were $25,000. Bookie George Lederman took another $25,000. Bookie Milton Held got $35,000. A sharp-eyed hunchback named Oscar Gutter swore he had won $40,000 from Capone; Harry Belford, better known as "Hickory Slim, the Dice Guy," $25,000. Other bookmakers got smaller amounts. Altogether Snorkey's fondness for playing the Caponies seemed to have cost him some $200,000. Snorkey smirked, did not seem ashamed. One Bud Gentry breezed up on the stand, recalled that Prizefighters Sharkey & Stribling and Mrs. Tex Rickard had been Capone's guests in Florida, said that at the end of the 1929 racing season he had won $110,000 from Snorkey. He could not remember any of the horses Snorkey had bet on. The defense rested.

During much of one day's testimony Snorkey had his eyes on slim Beatrice Lillie, who sat with the reporters. He wanted to meet her, but his lawyers objected. Chirruped Actress Lillie: "Well, I wasn't billed, but if pressed I'll sing a song for you."

*Among them: a representative of the *Christian Science Monitor*, which seldom prints crime news.

*Not in five years has Prosecutor Johnson argued a case in court, except to sum up.

Pg. 1

CAPONE MAY FACE GUN-TOTING TRIAL

Wilkerson Hints of Contempt Charge if Gangster Knew D'Andrea Had Pistol.

By the Associated Press.

CHICAGO, October 22.—The Federal Government, which already has convicted Alphonse Capone, the gang leader, on two charges, had another avenue of possible prosecution opened to it today.

Federal Judge James H. Wilkerson asked whether the gangster knew his bodyguard, Philip D'Andrea, carried a loaded pistol into the courtroom during the Capone income tax trial, and pointed out Capone could be cited for contempt of court if he had such knowledge.

The point was raised as D'Andrea's counsel obtained another continuance on his contempt of court hearing. Without issuing any definite orders, Judge Wilkerson made it plain that he thought Capone's connection with his gun-toting friend should be investigated.

"If the defendant Capone needs guards to accompany him to the court room, he should be in custody of the United States marshal," said the court. "Is there evidence that the defendant Capone had knowledge of D'Andrea's being armed?"

Assistant United States District Attorney Jacob I. Grossman said that in his answer to the contempt of court citation, D'Andrea stated he acted as guard for Capone "at the latter's solicitation."

D'Andrea's attorney, Joseph R. Roach, said his client accompanied the gang chief "not officially, but in a friendly manner."

"He claimed he had been a bailiff in a municipal court," Roach said, "and the defendant Capone had received many threatening letters from cranks and, therefore, asked D'Andrea to accompany him."

With Capone's possible culpability still in the air, D'Andrea was taken back to jail where he has been since October 10, the day he was found carrying a loaded pistol while sitting behind Capone in the income tax trial. His case is to come up again next Tuesday.

Capone has already been sentenced to six months by Judge Wilkerson on one contempt of court charge for not answering a grand jury summons. He is expected to be sentenced tomorrow on his convictions for violating income tax laws. He has been indicted and probably will be tried soon on a charge of conspiring to violate prohibition laws.

Authorization from Washington, D. C., expected today, alone was needed to set the Government tax collectors busy seizing Capone's property.

Robert E. Neely, acting collector of internal revenue, announced the gang chief's property, from what real estate he may possess to his $135 suits, may be seized after tax liens are obtained for overdue income taxes.

A maximum sentence of 17 years' imprisonment and $50,000 in fines is possible under tomorrow's court decision. The tax liability charged in the criminal action was only $215,000, but the Government is expected to seek collection of about $500,000.

The prosecutors have announced they will begin a legal battle tomorrow to have Capone sent immediately to Leavenworth Penitentiary. His attorneys have said they would appeal the conviction.

The Washington Star
10/22/31.

69-180

AL CAPONE NOT TO SEE CELL FOR 2 YEARS

It Will Take That Long for Action on Appeal; Gangster to Be Sentenced Tomorrow

CHICAGO, Oct. 22 (I.N.S.). Citizens of crime-ridden Chicago were speculating today on two questions:

How long a prison sentence will Federal James H. Wilkerson mete out to Al Capone in court tomorrow?

When will the super-gangster begin serving his sentence?

Judge Wilkerson can virtually efface America's "big shot" racketeer from the gangland picture by giving Capone the maximum penalty—17 years in prison and a fine of $50,000.

Guzik Got 5 Years

The longest term ever given a gangster for income tax violations, however, was five years and a day—the sentence in the case of Jack Guzik, Capone's "financial secretary."

Legal obstacles may block immediate incarceration of Capone. In Chicago the belief prevails that fully two years may elapse before the Government finally gets Capone behind prison walls. There is a good deal of speculation whether Capone will be at liberty during the world's fair in Chicago in 1933. The concensus is that he will, and that he will be doing business at the same old stand.

Await Action On Appeals

The belief that it will require two years to imprison Capone is predicated on the snail-pace progress of the appeals in the cases of Guzik and Ralph Capone. In April, 1930, Ralph Capone, Al Capone's brother, was convicted by a jury in Judge Wilkerson's court of tax evasion, and sentenced to imprisonment for three years. Guzik was convicted of a similar offense in May, 1930 and given a five-year sentence.

Both Guzik and Ralph Capone appealed to the appellate court and final rulings in their cases are not expected until next spring.

Washington D.C. Times 10/22/31

NOT RECORDED
69-180

3

4

CAPONE WINS AND LOSES, BUT STAYS IN JAIL

Trip to Leavenworth Delayed; Bail Denied, and Al Lingers Behind County Prison Bars

By FREDERICK C. OTHMAN

CHICAGO, Oct. 27 (U.P.). Alphonse Capone settled down for an indefinite stay in Cook county's none-too-comfortable jail tonight.

The Circuit Court of Appeals ruined his Florida vacation plans by denying him freedom on bond while he appeals his 11 year prison sentence for income tax fraud.

GRANTS SUPERSEDEAS

The court did, however, grant him a supersedeas, which keeps him from going to Leavenworth penitentiary immediately, and allows his attorneys to appeal even to the Supreme Court of the United States.

The appeal may take two years. If it does, the "Scarface" may stay in jail all that time and still have 11 years more of imprisonment before him.

When Judges Samuel Alschuler, Will M. Sparks and Evan A. Evans announced their decision, Defense Attorney Michael Ahern exclaimed:

"Capone might as well be in Leavenworth as in the county jail."

Ahern indicated he would appeal immediately to Justice George Vandeveer of the Supreme Court for freedom of his client. As for the $50,000 fine which the Circuit Court ruled must stand, Ahern said he "guessed" Capone would have to pay.

CHASTENED CAPONE

The swaggering Capone, who sneered at courts for the decade he ruled Chicago's underworld with machine gun and bomb, meanwhile, was a chastened gangster. He mused:

"I'm glad to stay here."

He had dreaded his prospective trip, in leg-irons, to the Kansas prison; had dreaded even more his prospect of doing hard physical labor when he got there.

In the celebrated "crack-proof" jail, from which more than one prisoner has escaped despite all its ultra-modern gadgets, Capone's life won't at all be quite so difficult.

He may wear any clothes he pleases, even to the silk underwear which figured so prominently in his trial before Federal Judge Wilkerson. And he may have all his food especially prepared and brought to him. For that Capone is thankful; he fears that his enemies otherwise might attempt to poison him.

USUAL AMUSEMENTS

Otherwise, his lot is the same as that of the lowliest panhandler in the jail. His cell is furnished with one hard bench and cold running water. For amusement, there is the jailhouse radio system which blares jazz from a loud speaker at the end of a concrete corridor.

In the next cell from Capone is his bespectacled bodyguard, Phil D'Andrea, who made the mistake of carrying a pistol into Judge Wilkerson's court on October 10.

Washington Herald
10/28/31.

5

RULING ON CAPONE PLEA DUE TODAY

Court of Appeals May Order Him Sent to Prison or Held in Jail.

By the Associated Press.

CHICAGO, October 27.—Al Capone has settled down for what may be a long stay in the county jail, and apparently much more content to remain there than to leave for a Federal penitentiary.

A ruling on the gang chief's request to be free on bond while his income tax conviction is appealed to the higher courts is due at 2 p.m. today from the Circuit Court of Appeals. The court may either order him freed, sent to Leavenworth or held in his present quarters.

United States marshals were ready to leave with Capone tonight for Leavenworth, but they have been ready twice before, only to have their plans frustrated by court orders to hold him in Chicago. The first occasion was immediately after his sentence Saturday to 11 years imprisonment and $50,000 in fines; the second when the appeals court granted a 24-hour delay yesterday.

Defense attorneys argued before the appeals body that the indictment on which the gangster was convicted was faulty. On that ground, they have filed a notice of appeal to the higher courts.

D'Andrea Asks Mercy.

Philip D'Andrea, pistol-carrying bodyguard of Capone, interrupted his contempt hearing before Judge James B. Wilkerson and threw himself on the mercy of the court.

Judge Wilkerson adjourned the hearing, saying he would give his decision at 10 o'clock tomorrow morning.

The court seized the gang czar's bodyguard to the stand after Defense Attorney Michael Ahern said D'Andrea would ask the court's mercy for carrying a pistol in his pocket during Capone's income tax trial.

Judge Wilkerson, questioning D'Andrea, asked:

"What are your connections with Capone?"

"I'm just a friend."

Ignorant of His Business.

"What is Capone's business?"

"I don't know. It's too delicate a question for me to ask."

The questioning brought out that D'Andrea went to Lincoln, Nebr., recently to aid Gus Winkler, East St. Louis, Ill., gambler, in preparing his defense on charges of participating in the $2,500,000 robbery of the Lincoln National Bank & Trust Co.

Ahern brought out Judge Wilkerson had objected to the police guards assigned to conduct Capone between hotel and court room during his trial, believing United States marshals should safeguard the gangster's passage instead.

"I am merely trying to show," said Ahern, "that we did all we could to stop the police guards, and would have stopped D'Andrea from carrying a pistol if we had known he carried one."

United States Marshall Henry C. W. Laubenheimer testified he had informed the defense on the second day of the Capone trial that the gangster's bonds would be revoked if armed guards accompanied him to court. The defense said they understood the marshal to mean the police guards.

Gives Gun Demonstration.

Frank J. Wilson, an agent of the Internal Revenue Bureau, testified he saw D'Andrea remove his trousers and search another man for a weapon. The witness, Wilson said, was "Not quickly convinced to 'Yes.'" Wilson said he found the pistol loaded with six more bullets in a vest pocket. He had first observed the "bulge" when D'Andrea sat behind Capone in court.

Ahern handed the pistol. He asked the indulgence of the court, loosened his trousers and stuck the pistol out of sight. Then he buttoned his coat, turned to Wilson and said: "Can you see any bulge?" Wilson could not. He opened his coat, let the witness have a good look, and still Wilson said he could see no bulge of the pistol. In explanation Wilson said D'Andrea's trousers must have been tighter than the attorney's.

The liquor conspiracy charges against Ralph Capone, Alphonse's elder brother, and others associated in the operation of the Cotton Club and Club Alabama in suburban Cicero were continued by Federal Judge Walter C. Lindley today.

Assistant United States District Attorney Victor La Rue asked for a five-day continuance because he was unable to round up all his witnesses.

Ralph is under a three-year prison sentence for income tax evasion, the same crime for which his brother was convicted.

OPPOSES CAPONE REVIEW.

Government Brief Filed Against Plea by Ralph.

By the Associated Press.

Through with Al Capone for the moment, the Government turned its attention today to his brother, Ralph.

A brief filed in the Supreme Court asserted that from a conviction for violation of the income tax laws—Al's nemesis also—should not be reviewed by the court.

The court is expected to announce next Monday whether it will grant a review. Gangland has a good deal of interest in the result.

If Ralph Capone is successful in getting a review, Frankie Lake and Terry Druggan, ex-beer barons of Chicago, are expected to follow in his legal footsteps in an effort to reverse their convictions.

The case also may establish a precedent which will know Al, the recently crowned underworld czar, what is in store for him in his pending appeals.

Solicitor General Thacher in the brief resolved to cavil to the technical claims by Ralph Capone that he had been illegally convicted and sentenced to four years in the penitentiary.

He said that within the five years and four months preceding April 2, 1929, Ralph Capone's bank accounts showed deposits of $1,851,840.

Washington D.C. Star 10/27/31

69-180

3

Capone Conviction Declared Only Beginning of Big Task

Conviction of Alphonse Capone by the Federal Court is found to offer some cause for public congratulation, but it is feared that the case is still far from its final stages. Regret is expressed that local authorities have failed to press more serious charges than the income-tax offenses, and it is felt that the present case offers little prospect of crushing Chicago's gangland.

Referring to the murder of a rival "czar" by gunmen on the day following the conviction of Capone, the Springfield (Mass.) Union declares: "The object lesson of his conviction appears to have failed, at least so far as it applies to activities which fall outside the scope of the Federal income tax law. Coming so soon after the verdict against Capone, it seems to carry a message of defiance to the State and city authorities, if not to the Federal Government."

Discussing the same incident, the Port Huron Times-Herald remarks: "Is this perhaps a warning to the Chicago underworld—and the Chicago police—that whatever the United States Government does to Capone in that income tax business is not going to interfere with his control and operation of the city's vice and racketeering? It looks like a [illegible]. And the important question is, will Chicago continue to stand for it?"

As to the proposed punishment of the Chicago defendant, the Sioux City Journal declares: "This rabbit may have been caught, but he is not going into rabbit stew for some time to come." The Savannah Morning News adverts: "Crime does not suffer a failure now and then to halt it; justice must not allow a victory to stop its steady work. There are more Capones in the making. There may be reason for some more convictions shortly." The Toronto Daily Star concludes: "One cannot go so far as to say that the case of Al Capone will be pushed to its conclusion. The most one could say as yet is that it could be."

* * * *

"The jury has vindicated itself in principle," according to the Pittsburgh Post-Gazette, "convicting the defendant on five counts. While it is criticized somewhat from the technical standpoint for its acquittal of him on a number of others, the responsibility for passing upon the testimony belonged to it, and it created the impression of devoting itself sincerely to its duty. While, within limitations, the authorities are to be congratulated on a victory, no one more than they should realize that they have but made a beginning."

"When criminals are regularly caught, convicted, promptly sentenced and taken to prison, from there might return some of the [illegible] American quality, respect for law," thinks the Columbia (S. C.) State, and the Minneapolis Star hearty supports the Government in its efforts unknown to "keep its grip on him."

The Fort Worth Star feels that now that [illegible] the verdict, it is [illegible] easy to [illegible] it on. "If other cities are really desirous of ridding themselves of gangsters," it says, "and if Chicago is desirous of prosecuting to a conclusion the work which the Federal Government has begun in the Capone case the task will be easier because of the success which has so far attended this particular legal offensive. The procedure at Chicago has proved that legal weapons are available for use against gangsters as against other criminals. The next year ought to show whether the cities have the will to use them."

"Even in this indirect manner, the authorities have accomplished much," asserts the Asbury Park Evening Press, while the Manchester Leader points out that "the trouble in the past has been that the police appeared to be helpless in the matter of dealing with the organized gangs. It looked as if gangdom had set up its own code and that rival gunmen constituted the principal menace to gangsters. That made it a precarious life, but the mentality of the recruits would incline them to the belief they were picking the dominant gang, hence it would be comparatively safe. If it finally seeps into the minds of the weaklings that the police are on the job and doing good work in cleaning them up, the gaps in the organizations will not be so easily filled up because fighting on anything approaching even terms is not to the liking of the class from which gangsters are recruited."

* * * *

"Perhaps it means the beginning of the end of gang rule in America," states the Meridian Star. The Davenport Democrat says: "Conviction at this time is a triumph for the law and the Federal prosecutors and undoubtedly ends for all time his career as an all-powerful gangster chieftain." The Altoona Mirror makes the appraisal: "This is the first time that the Chicago gangster has ever been convicted of an offense that is punishable with a penitentiary sentence. The verdict was quite what the public expected." Considering the evidence in the case, the Oakland Tribune contends: "The court was asked to believe that, in the end, Al Capone profited nothing from his business because he was simple enough to drop his fortune in regular installments into the laps of the race track bookmakers. It is not likely a court would believe anything of the kind."

The Des Moines Tribune-Capital finds in this case an argument "for more policing by central authority," while the Milwaukee Sentinel feels that the result should be "humiliating to Chicago and Cook County authorities," and the Chicago Daily News avers: "Capone's arraignment, trial and conviction in a Federal court make the impotent attitude of local law-enforcing authorities the more discreditable."

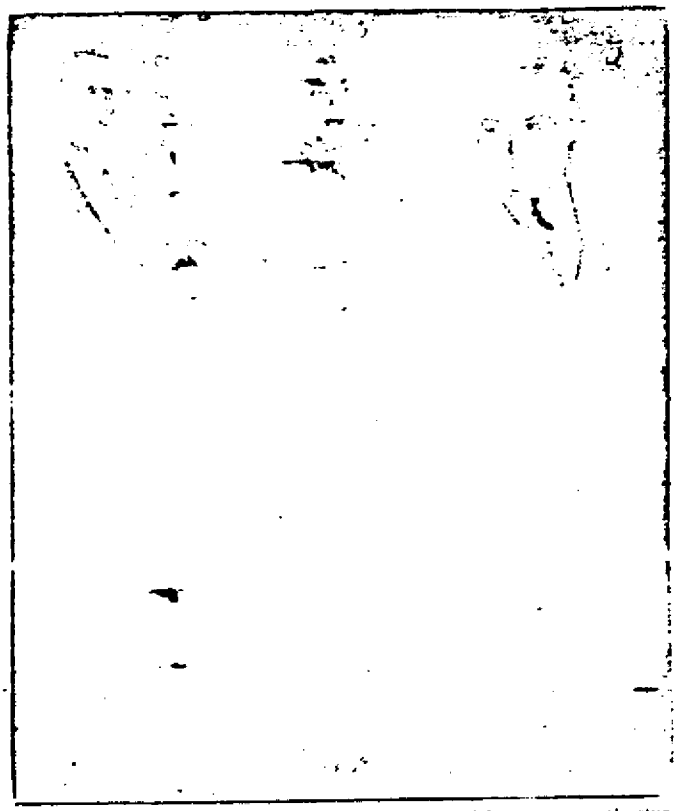
The Washington Star 10/27/31.

NOT RECORDED
69-180

7

Capone Stunned by Sentence

CHICAGO GANG LEADER SHOWN LEAVING COURT.



Alphonse Capone, Chicago gangster, as he appeared in an apparently stunned and dazed condition on leaving court room of Federal Judge James H. Wilkerson, who sentenced him to 11 years in Leavenworth Penitentiary for income tax violation. Capone was also fined $50,000 and ordered to pay the costs of his prosecution, estimated at about $100,000. The burly gangster was escorted by United States marshals from the Federal court room to the Cook County Jail, Chicago, where he will be held prior to departure for prison. —A. P. Photo.

Wash. D.C. Star - 10/26/31

18

B - MAG

CAPONE DEPARTURE TO PRISON DELAYED

U. S. Court of Appeals to Give Bond Plea Ruling Tomorrow.

Star 10/26/31

By the Associated Press

CHICAGO, October 26.—Alphonse Capone's departure for prison was deferred another day by the United States Circuit Court of Appeals today.

Three appellate judges, sitting en banc, heard the convicted gang lord's attorneys move for a supersedeas bond to allow him liberty while his income tax case was reviewed. The court then ordered "Scarface Al" held another night in the county jail and promised a ruling at 2 p.m. Tuesday.

Capone, settled down comfortably in the county jail appears not badly dissatisfied with the way the matter stands. He has found his cell comfortable and the food good.

Court Is Usually Upheld.

Judge James H. Wilkerson, who gave Capone Saturday the most severe sentence ever given for an income tax conviction, indicated a wish that he leave immediately for Leavenworth. Government attorneys said that the appeals court usually upholds the lower court in such matters.

The attorneys had prepared two requests, one for a stay of sentence and the other for [illegible] admission to bond. If only the stays were granted Capone would remain in the county jail while the case is appealed. In case both motions were granted he could return to his liquor, gambling and vice enterprises while the litigation continues.

D'Andrea Note Taken.

A pencilled memorandum concerning a Chicago policeman's transfer, found in the pocket of Philip d'Andrea, bodyguard and cellmate of Capone, was handed to the Government today by Warden David Moneypenny of the Cook County Jail.

The note, which Warden Moneypenny said was taken from D'Andrea before he had a chance to dispose of it, gave the name of a policeman and then read, "Nineteenth district to Detective Bureau or first, second or third district."

D'Andrea was arrested October 10 for carrying a loaded pistol with him while attending the income tax trial of his chief, Capone. He has been in the County Jail ever since.

Saturday Capone himself went to jail under sentence of 11 years for evading income taxes, and the two have been cellmates.

A supposed "leak" through which police information reached the hands of the Capone gang was suggested because of several other incidents, notably the finding in a Capone hangout several months ago of a police list of "public enemies" for whom warrants were to be sworn. The list, apparently revised by the gangsters, was later found in police files.

Washington D.C.
Star - 10/26/31

NOT RECORDED
69-180

19

TIME

October 26, 1931

Indicted Bishop

"Is that authentic? Oh, isn't it just grand! Mr. Tinkham will be so pleased!" The female secretary of black-bearded Representative George Holden Tinkham of Massachusetts, longtime political enemy of Bishop James Cannon Jr. of the Methodist Episcopal Church, South, almost jumped for joy. For Bishop Cannon had just been indicted, with Miss Ada L. Burroughs, bespectacled treasurer of the Virginia Anti-Smith Committee in 1928, both charged with violations of the Federal Corrupt Practices Act. It was the same charge that Representative Tinkham had made last year; but Bishop Cannon had defied the Caraway Lobby Investigating Committee and walked out (TIME, June 16, 1930). Miss Burroughs had obdurately refused to testify before the Nye Senate Campaign Funds Committee which then threatened to cite her for contempt. Last week's charges, the ten counts of which could provide an aggregate of ten years in jail and $21,000 in fines, were made by the District of Columbia Grand Jury, which under District Attorney Leo Rover took over the evidence collected by the Nye Committee.

Counts. The allegations in the indictment are based upon the receipt by Bishop Cannon, for his campaign in Virginia against Alfred Emanuel Smith, of $65,300 from Edwin Cornell Jameson, Manhattan insurance man (TIME, May 7, *et seq.*). Federal statute requires that inter-State political contributions be filed with the Clerk of the House of Representatives. Bishop Cannon revealed disposal of only $17,000 of Fat Cat Jameson's money. The remainder, he has insisted, is his own business.

Four counts in the indictment charge Miss Burroughs with *willful* failure to report the full amount, and Bishop Cannon with "aiding and abetting" her, which if proved makes him equally guilty. Four counts charge mere technical, unwitting violations, implicating the Bishop in the same manner. The remaining two counts charge conspiracy "with divers other persons" to commit the (willful) felony and the (unwitting) misdemeanor.

Persecution. Bishop Cannon was in Atlanta at a church conference (see p. 221) when he heard of the indictment. No one was surprised to hear him say: "This is merely a plot to discredit me, a persecution by a Roman Catholic district attorney *acting under orders of his priest.*" (The case had been turned over by Catholic District Attorney Rover to Protestant Assistant District Attorney John J. Wilson, who presented the evidence to the Grand Jury last month.) With bond set at $1,000 and the trial slated for some time before Jan. 1, Bishop Cannon said he did not fear. He has previously defended his action on the ground that the Corrupt Practices Act deals only with Federal officers. Presidential electors, for whom the money was spent, are State officers, says he. It was indicated that his lawyer, Robert H. McNeill, might file a demurrer to the indictment upon this ground.

220

Time 10/26/31

Argument. Assistant U. S. Attorney Jacob I. Grossman estimated the Capone income at $120,000 in 1924; $250,000 in 1925; $195,000 in 1926; $220,000 in 1927; $140,000 in 1928; $104,000 in 1929—total $1,029,000. Declared he: "When they [the defense] put those gamblers on as witnesses they admitted that we had proved our case. Why prove deductions if we have not proved income?"

Mr. Fink, still feeling hurt, thought the language of the indictment was "vague, indefinite, uncertain," felt that a great injustice had been done to Snorkey in charging him with "attempting" to evade tax payments. Snorkey, he said, had only "omitted" to do his duty. In Washington, Treasury officials punched a hole in Snorkey's only defense by pointing out that race track losses could not be deducted from his income. If he lost consistently, they explained, the money he lost must have come from other sources than the track, and therefore he must pay income on it. Lawyer Ahern deplored the "great public clamor" against Snorkey, called him a "mythical Robin Hood." Prosecutor Johnson indignantly insisted the Government was presenting the case with "high purpose."

Charge. Judge Wilkerson hitched his chair toward the jury box and leveled his bushy brows at the jurymen, to deliver his charge. Excerpt:

"Mere failure to file an income tax does not constitute 'attempt' to evade or defeat the tax. . . . To convict you must find beyond reasonable doubt that there was intent to defraud and also some act done in furtherance of that intent. . . ."

Snorkey looked blissfully contented as the jury filed out. In a bright green suit ($135) and green-spotted tie he stood in the corridor and smiled. Also pleased with Judge Wilkerson's dispassionate charge were Counsel Ahern & Fink. A moment later Snorkey disappeared. It was 2.40 p. m.

Verdict. At 10:50 p. m. the jury was ready, but Snorkey was nowhere to be seen. Lawyer Ahern rushed to a telephone. Fifteen minutes later in popped Snorkey, panting, sweating. He tossed a green coat & hat on the counsel table, mopped his fat head with a green handkerchief. In came the jury.

"We, the jury, find the defendant guilty on counts 1, 5, 9, 13 & 18 in the second indictment, and not guilty on counts 2, 3, 4, 6, 7, 8, 10, 11, 12, 14, 16, 17, 19, 20, 21 & 22."

Judge Wilkerson looked puzzled. So did Messrs. Ahern & Fink. "Inconsistent," mumbled the prosecution. Snorkey grinned broadly.

Soon the meaning of the verdict became apparent. The jury had decided Snorkey feloniously "attempted to evade & defeat" the income tax in 1925, 1926, 1927, but in 1924 & 1928 he only "failed" to pay up. The jury apparently thought he had tried his best in 1929.

The prosecution huddled and counted up. For each of the two years Capone had merely neglected to pay his tax, he might be sentenced to a year in the penitentiary; for each of the other three years he could be given a five-year sentence; on every count he could be fined $10,000; total, 17 years, $50,000. Inconsistent or not, the Government was satisfied with the verdict, moved to attach his worldly possessions in lieu of the $215,000 he owed.

Snorkey did not think Judge Wilkerson would give him the maximum penalty. He grinned in all directions around the courtroom, then got to his feet, hurried to an elevator, descended to the street, jumped into a waiting automobile and disappeared into the sprawling city whose thousands of illicit night haunts were his Empire.

Pg 2 221

Bureau of Investigation

Room 318. 11-7 1931.

To:
- X Director.
- ___ Ass't. Director Nathan.
- ___ Miss Gandy.
- ___ Miss O'Brien.
- ___ Chief. Div. 2.
- ___ Chief, Div. 3.
- ___ Chief, Div. 4.
- ___ Chief. Div. 5.
- ___ Chief. Div. 6.
- ___ Chief, Div. 7.
- ___ Chief. Div. 8.
- ___ Chief, Div. 9.
- ___ Chief, Div.10.
- ___ Supervisor, Steno. Pool.
- ___ Inspector___
- ___ Miss Sheaffer.

222

Clyde A. Tolson.

Bureau of Investigation

From: Division Six.

10 / 30 1931.

To: ___Director.
___Mr. Nathan.
___Mr. Tolson.
X Miss Gandy.
___Mr. Egan.
___Chief, Div. 2.
___Chief, Div. 3.
___Chief, Div. 4.
___Chief. Div. 5.
___Chief, Div. 6.
___Chief, Div. 7.
___Chief, Div. 8.
___Chief, Div. 9.
___Chief, Div. 10.
___Mr.

I had this copy prepared believing Director might wish to have it.

DCJ

223

Department of Justice
Bureau of Investigation
Washington, D. C.

[illegible]

As Alphonse Capone, [illegible]
Pa., August 8, 1929, from Philadelphia, crime carrying concealed deadly weapons; sentence 1 year.

As Alphonse Capone, [illegible]

[illegible]

224

Page Two.
10-30-31,
Alphonse
Capone,
[illegible], U.S.
Marshal,
Chicago, Ill.

[illegible]-833A

Department of Justice
Bureau of Investigation
Washington, D.C.

Capone

[illegible]
Fp Miami, Florida
Fp Chicago, Ill.
[illegible]

215

CAPONE'S BROTHER MUST SERVE TERM

Gangster Is Refused Review of Conviction on Income Tax Charge.

11/2/31

By the Associated Press.

Ralph Capone, brother of Al Capone, today was refused a review by the Supreme Court of his conviction of having made false statements in an attempt to compromise his income taxes.

The action ends the gangster's hope of a legal escape from his three-year sentence and a fine of $10,000.

Other gangsters have been watching the case.

Two Plead Guilty.

Terry Druggan and Frankie Lake, former Chicago beer barons, have pleaded guilty to income tax violations with the understanding that they might change their pleas if Ralph Capone won a review.

Obscured somewhat by the notoriety of his brother Al, Ralph nevertheless found underworld operations very profitable. At his trial the Government introduced evidence to prove that in a period of five years preceding April, 1929, he banked more than $1,800,000.

He failed to file a return or pay any tax during 1922, 1923, 1924 and 1925.

After the Government began investigating, Capone admitted to the internal revenue agent at Chicago that he owed the Government $4,082.

Offered $1,000 Compromise.

Asserting that he received an income of approximately $20,000 yearly from gambling, he offered to compromise by paying $1,000.

He claimed he had lost so much money on his race horses and in defending himself and his associates from criminal prosecutions that he was broke.

The Government made that admission the basis of prosecution against him. They said he had an extensive income from handling liquor.

After his conviction, Ralph Capone took his appeal to the Seventh Circuit Court, where he lost.

Washington D.C. Star 11/2/31

226

Kansas City St
10-29-31

NSAS CITY STAR. T

CAPONE GANG HIDES OUT

[illegible] AT LEXINGTON HOTEL FIND HEADQUARTERS EMPTY.

Search in Hangout of Racket Chief Reveals Precautions He Took Against Being Poisoned.

(By the Associated Press.)

CHICAGO, Oct. 29.—The Lexington hotel, "outlaw camp" of Alphonse Capone and his gang lieutenants, was raided by detective squads today and found deserted except for servants.

The raid was described by the Chief of Detectives, William Schoemaker, as part of his campaign to harass gangsters at every turn and arrest them on sight.

Detectives discovered Capone's often expressed fear of being poisoned extended even to his own hangout. On the fourth floor of the hotel, which apparently had been reserved entirely for Capone and his "boys," officers found a completely equipped kitchen with a chief, a second chief and a waiter who served only the gangster and members of his party. These three servants were the only ones found in the spacious quarters.

The hotel was described yesterday by Federal Judge James H. Wilkerson as an "outlaw camp" where the Capone gang "exercised a coercive interest over those with whom it came in contact."

As his headquarters was raided and his gang apparently scattered, Capone took on the aspects of a "model prisoner" at the Cook County jail. He is there pending an appeal on the conviction which brought him an 11-year sentence as an income tax dodger.

Kansas City Star 10-29-31

A C[illegible]geous Judge.

In his entire conduct of the Capone case Judge James H. Wilkerson of the federal court in Chicago has displayed a type of courage and a sense of strict justice that are heartening to the great body of American people who stand for the maintenance and supremacy of law. From the very outset, when the gangster appeared before him on a plea of guilty, there was evidence of a firmness and determination on the part of Judge Wilkerson that was most disconcerting to the man who had been brazen in his defiance of constituted authority. Capone was warned then that there could be no bargaining with the court, a point that the gangster was to grasp fully in later days.

Judge Wilkerson's denunciation of the whole band of lawless followers that Capone had gathered about him comes as another indication of the stern quality of this defender of law and justice. The jail sentence given the gangster's bodyguard who had appeared armed in court, together with the outright declaration that there had been "a shocking array of perjury" by Capone witnesses at the trial, is still further evidence of a rigid adherence to the demands of order and of a fixed purpose to deal out punishment where it is due. Gangdom in Chicago and elsewhere well may take heed to such procedure in a court of law. Justice is having its turn. The example of Judge Wilkerson ought to mark the opening of a new era in enforced respect for authority in this country.

227

A NEW TONE TO CHICAGO

Kansas City Star 10-28-31

CAPONE'S CONVICTION PUTS SPIRIT IN FIGHT ON CRIME.

City Prepares to Follow Up Elimination of Gang Leader With Final Threat at Grip of Racketeers.

CHICAGO, Oct. 28.—The conviction of Al Capone here by the federal government has given Chicago a moral stimulus which has aroused its civic consciousness to a greater degree than anything since the famous O'Leary cow started the historic fire that almost destroyed the entire city.

This, in effect, is the opinion of leading citizens and government officials who have fought the reign of crime here.

Foremost in combating the racketeers, gunmen and hoodlums who have considered Chicago their prey for the last ten years is the Chicago Employers' Association. Today, President Earle H. Macoy said the effects of "Capone's conviction, if they finally succeed in sending him to Leavenworth, will be wonderful. His incarceration will demoralize all his cohorts. Others who may seek to succeed him will fear to make the attempt.

NEW UNITY IN FIGHT.

"This conviction has done more to stimulate [illegible] than anything that [illegible] here, and it [illegible] us who seek to eliminate crime into a closer organization better fitted to continue our fight. We now have encouragement against what has sometimes seemed a redubitable wall.

"The gangsters fight together, with their fists closed and are highly organized. We are like the 'Cabots and the Lodges' willing to fight, but we have our fingers spread and hands open. Now we shall work together with closed fists."

The Chicago Employers' Association has been breaking up gangster methods here for the last few years when thugs sought to "muscle in" on legitimate business men.

One government official, closely associated with the Capone conviction, who asked that his name be withheld, made this assertion:

"[illegible] to succeed Capone. The minute anyone sticks his head up above the crowd of minor thugs and hoodlums and seeks to emulate Capone he will be advertising for 'bed and board' in Leavenworth, and those in authority will see that he gets it. The gangs will now begin to disintegrate and they will not be as formidable without their leader."

WIDE REACTION TO VERDICT.

Bankers, merchants and industrial leaders expressed pleasure on Capone's conviction.

Charles P. Megan, president of the Chicago Bar Association, said:

"The public will feel satisfaction in knowing the laws of the United States cannot be broken with impunity and that no offender is powerful enough to escape punishment."

William V. Brothers, chief justice of the circuit court, said the conviction is a "triumph for Chicago. It will do much to overcome the false reputation of Chicago in the nation and the world."

FEAR HOLDS GANG RIVALS.

Police Find No Pretenders to Leadership of Capone.

(By the Associated Press.)

CHICAGO, Oct. 28.—The Chicago police are going to go into the question as to who will attempt to take up the reins of gang leadership in Chicago now that Al Capone is locked in jail as an income tax dodger.

"Dago Lawrence" Mangano, listed by the Chicago crime commission as a "public enemy," was questioned on the subject following reports his followers had been planning to form a new syndicate to take the place of Capone's, but Mangano was prompt with a denial.

"I don't want to be king for a day," he told William Schoemaker, chief of detectives, implying he would expect to be killed if he assumed Capone's place as a gang leader.

KANSAS CITY JOURNAL-POST, WEDNESDAY, OCTOBER 28, 193

'FREE' IN JAIL CELL

Capone Gets Special Food and Has Visitors.

CHICAGO, Oct. 28.—(U.P.)—Al Capone, convicted of defrauding the government of income tax, will continue for a time at least to enjoy the comparative luxury of a stay in Cook county jail rather than immediately [illegible] his 10-year sentence at the federal penitentiary at Leavenworth.

[illegible] on bond [illegible] the jail [illegible] will enjoy a stay [illegible] execution of his sentence by the United States circuit court pending appeal of the case. Meanwhile, Capone's attorneys planned to carry their fight for bail to the United States supreme court.

The time spent in jail will not count on either the penitentiary sentence or the 1-year jail term imposed on Capone by Judge James H. Wilkerson. Because of this, the gang leader's attorneys obtained permission for their client to begin his term at Leavenworth if the supreme court denies a bail plea.

[illegible] the Cook county jail, Capone is able to receive visitors, have food sent in from outside and spend his time as he pleases in the special cell to which he was assigned.

3-YMA

Washington Herald
10-30-31

CAPONE 'FORT' RAIDED; YIELDS TRIO OF CHEFS

Hoodlums Gone, But Police Learn Gang Chief Had Five Radios and Period Furniture

CHICAGO, Oct. 29. (U.P.) While Alphonse (Scarface Al) Capone fretted in the city jail today, detectives raided his headquarters at the Lexington Hotel, known as "The Fort."

No hoodlums were present, no shotguns and no bombs, announced the officers, but they did discover just how luxuriously a gangster chieftain likes his living.

RENTED ENTIRE FLOOR

Capone, they learned, rented the entire fourth floor of the South Michigan Boulevard hostery and a large part of the third. He had a private kitchen which sparkled with stainless steel; a living room cluttered with period furniture, five radio sets, a bedroom, said the awed police, with the biggest and softest bed this side of Utopia.

In Capone's super-kitchen the officers obtained their only captives. Head Chef Jimmy Arcadi, self-admitted expert in preparing spaghetti; Second Chef Joe Abruzzi, whose specialty was spumoni, and Joe Jones, colored busboy, whose duty it was to serve the "Scarface."

SAW CAPONE OFTEN

Arcadi, Abruzzi and Jones insisted they didn't know for whom they worked, although they admitted seeing Capone frequently.

Chief of Detectives William (Shoes) Shoemaker said the Lexington raid was his first in a renewed attempt to "put all the gangsters in with Capone, where they belong."

Meanwhile Capone lounged as best he could on a hard-wood bench in his cell, awaiting final disposition of his 11-year prison sentence for income tax fraud. He played solitaire, read a detective story, and turned down Warden David Moneypenny's offer of "congenial work pushing a mop."

NOT RECORDED
69-180

229

B Mrs Page 2

Portrait of a man talking to Capone

"WHAT I can't figure out with a guy like you," I said to him, "is you are in a big business. The biggest business men cheat a little, but they rarely give the Government a chance to catch them clowning with their income returns. You should have used your nut and paid it!"..."Why?" he snapped. "I have no business!"..."Then," I countered, "how are you going to explain all this—and your wealth?"..."Presents," he said. "My friends and cousins gave me it all"...I realized then that Capone wasn't so shrewd, and the beer in me gave me the courage to so tell him...A newspaper was brought in..."Hah!" I hah'd, "this is good. Look! It says people in New York saw you today on a train. And here's a report that you just passed through Albany!"...It was amusing to read those statements sitting with him in Miami Beach'...Then he tossed the paper as a couch...The paper's front page carried another tale about him being wanted in Chicago for the Colosimo murder..."That's another thing about you I can't figure," I said. "You're nuts over that boy of yours. Still you leave newspapers around the house like that where he can see such stories about you. That's not nice"..."Don't mean a thing," Capone replied indifferently. "He knows that anything they put in the papers about me is lie"...God bless Mr. Volstead—if it weren't for him there'd be no marvelous Capone beer...I think I know the recipe...It must be flavored with lightning!"

800

Page-2

230

3. MA

The Washington Herald 10/29/51.

[illegible] Winchell on Broadway

Portrait of a Man Talking to Capone

SOMETHING told me at the time I wouldn't see Capone for a long spell...I mean the last time I met him in his Florida mansion... He seemed pretty glum after he got that call from Chicago—and they told him that local politicians, aspiring for the heights, were reopening the Colosimo thing again...He never dreamed that they would finally trap him via the income tax gag...The size of Alphonse was what impressed me more than anything about him...A mutual friend asked me if I would like to meet Capone, and I said I would... Might have made a lot of coin from all those magazines that asked for an article on the visit titled "The Capones at Home"...But I told Capone I wouldn't go commercial on the call—and I didn't...He said he didn't care whether I did or not—that he never met a newspaper man yet who didn't cross him...Wonder if it is true what I heard about him?...That before retiring each night he cried like a baby.

I HAD always pictured him as a small and fat person...He's over six feet!...When I was entering his place, he saw me coming up the three steps leading to the parlor...He was playing cards with three huskies...Their backs were to the door—Capone faced it!...'Oh, come in!' he called as he saw me, and in the same breath he must have said to the others, 'Scram!' because they disappeared quicker than the bird race that [illegible]...He was sweeping the table clean of cards and chips...I sat down on a settee near his side of the table..."Sit over here," he said..."No, this is all right," I countered..."No, sit over here, please!"...I pointed, but I didn't move...My eye had caught sight of the largest automatic I ever saw...It was resting in one of the table nooks, where they keep chips, I guess, and he didn't want me to be startled...He covered the gun with one of his immense paws and hid it on the other side of the table..."I don't understand [illegible]," I [illegible] of something to say..."Here you are playing a game of cards with your friends, but you keep a gun handy"...."I have no friends," he said as he handed me a glass of grand beer.

AMONG other things I learned during that call was that every time you referred to it as his gang, he corrected you with 'my organization'..."Why don't you guys never put in the paper about my breakfasts and soup lines?" he asked me...Then he told with great pride how his Chicago philanthropies so congested traffic that the police urged him to shorten the hours...He argued long and loud about being blamed for everything—most of which he never did...'All I ask is that they leave me alone,' he said once...I didn't tell him so, but I thought of a lot of people who wished he would leave them alone...His beautiful mansion was really [illegible] place for him...He couldn't leave it without a heavy guard...When he moved it was [illegible]—by plane or boat—both of which were anchored in the waters adjacent to his home [illegible]...He told me of a [illegible] coup in Miami that exposed him for the Government—who told the officials he wasn't sick at all when all the while he thought he'd die from pneumonia..."Once," he was saying, "I was so sick I fell down a whole flight of stairs!"...The doctor's fee, he thought, was too stiff, and he paid him only half..."So he told the Government," said Capone, "that I was never sick"...He sighed heavily, and, with a prop smile, added: "That's the funniest thing. Anybody I have wined and dined right in my own house has crossed me"...He handed me the third beer...Swelegent!

THE call from Chicago came...Before it arrived Capone was in a gay mood...He likes to talk, it seems—and he was defending his reputation against a first impression...After the phone call he came back into the parlor and seemed away off..."What's the matter?" I asked, "nothing good?"..."Aw," he said, "that bunch in Chicago is trying to pin the Colosimo murder on me. That was years ago! All of us had a hearing! The hell with them!"...He told me about the time they nailed him in Philly, where he did time..."I was buying tickets back to Chicago," Capone said, "and I told the ticket guy in the cage at the station to keep the change. It was a $50 bill. So that's what I got for being helpful. He must have recognized me. So he phoned the police, I guess, and lost my fifty dollars"...The detectives, it appears, traced him and his companions to a movie house and bagged him when they came out...They had gone to kill time between trains..."What crazy cops they were," Capone barked. "They might have started a panic in that lobby with all those people. That's no time or place to get excited—and maybe a lot of people could get hurt!"

I WAS looking at him through one eye—his beer was too good..."Yeah," I said, "that's pretty dangerous, with all those people around"...One of the cops said, "Hello, Al," and Al returned the salutation..."Got a gun on you?" the officer queried..."Sure," said Al, "go and get it"...Capone explained to me that it was a good thing he didn't remove the gun himself, for that is what the cops wanted..."They'd have shot me down, claiming self-defense, get it?"...They took him before a magistrate there..."Oh, boy," said Capone, "you should have heard the call-down he gave me. He called me everything in the world. I was a bum, a rat, a this and that. He missed nothing. All the time I thought he was putting on a show for the benefit of reporters and others in the courtroom. So I took it all...But he wouldn't stop...He told me he was sorry that he couldn't put me in the electric chair right then, himself!...Finally I promoted a lawyer and figured the bail would be low...But the judge, who once was my pal, was trying to crash the spotlight with me. He continued giving me a piece of his mind. So when he said $35,000 bail and I started to peel it off my bankroll, he changed his mind and said the bail would be higher...In the time I spent in that jail it cost me $110,000...All over the $50 tip!"

New York Times 10-29-

69-180 Page 1.

231

232

KANSAS CITY

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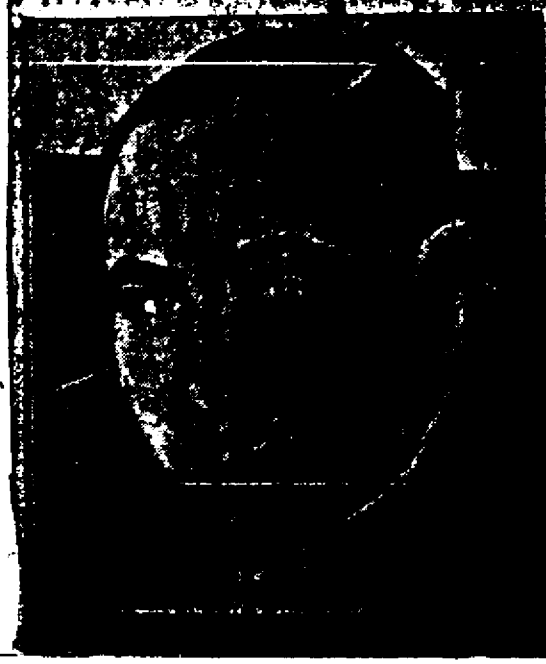
RNAL-POST
24, 1931.

11 YEARS IN PRISON

GANG LEADER AND MUST PAY $50,000 FINE AS TAX DODGER

Judge Starts 11 in Jail



232

Dissected Body Theory in Arizona

Doctor's Clinic Where She Worked Says Body Was Uncovered the Day After Alleged Killing of Two Women

300 L. C. JOBLESS MARCH BY TRUCK TO SEE GOVERNOR

Following Parade and Speeches Group Starts Proposed Trek

PAGES. 10-24-31

CAPONE, 11 YEARS

Federal Court Brushes Aside Technicalities to Sentence the Chicago Gangster.

A $50,000 FINE WITH TERM

Judge Wilkerson Places Penalty Close to Maximum for Income Tax Violation.

Appeal to Delay Entry In Prison Now Offers Only Refuge to Racket Chief.

LAW PASSES VITAL TEST

Hoodlum, Stunned by Outcome, Curses as He Faces Time in Penitentiary.

(By the Associated Press.)

Federal Building, Chicago, Oct. 24.—"Scarface Al" Capone, underworld leader of Chicago, was sentenced today to eleven years' imprisonment for violating income tax laws and ordered to the Leavenworth penitentiary.

In addition to the sentences, two years in the Leavenworth prison and one year in the county jail, Capone was ordered to pay a $50,000 fine and the costs of prosecution, estimated at about $100,000.

Denial to Every Motion.

Federal Judge James H. Wilkerson not only passed a sentence more than twice as severe as had ever been given an income tax evader before, but at first denied every motion which would have given the big gangster his freedom while the case was appealed.

Later Judge Wilkerson ordered that Capone be held at the county jail until Monday to permit his attorneys to seek bond in the United States circuit court of appeals. The judge previously had ordered the gangster taken to Leavenworth penitentiary immediately.

The court employed the maximum possible penalties on the five counts on which Capone was convicted, but cut the penalty from the possible maximum of seventeen years by ruling that several terms should run concurrently.

As the gangster, downcast and apparently [illegible] the sentence was led from the courtroom he was handed a demand for taxes and immediately afterward a lien on his $40,000 Florida estate and on three safe deposit boxes in the Equitable Trust Company, a bank on the South Side of Chicago.

Curse at an Officer.

Capone appeared to lunge at E. P. Henthorn, a deputy collector of internal revenue, as he was served with the legal papers. His face grew livid and he cursed. Two deputy marshals held him.

Last Saturday night, when the jury returned its verdict convicting the gang leader on five counts and not guilty on eighteen, there was some doubt as to which side seemed most elated. But there was no doubt today. Capone, his huge shoulders hunched forward, was glum. His attorneys were almost frantic in their efforts to obtain his freedom pending appeal.

District Attorney George E. Q. Johnson, who directed the prosecution and asked the jury in his final plea to convict "this man who tried to set himself above the law," smiled briefly, but refused comment. It was the high point of his 3-year campaign against Chicago gangsters.

Plea Stand Against Delay.

The defense filed notice of an appeal and Michael Ahern, chief of defense counsel, asked that perfection of appeal should automatically serve as a supersedeas, asking Judge Wilkerson to instruct the marshal to delay taking Capone to Leavenworth penitentiary. The court refused.

The penalty assessed by Judge Wilkerson was five years and $10,000 on each of three felony counts and one year and $10,000 on each of two misdemeanor counts. Sentence on two of the felony counts is to run concurrently, however, as are the two misdemeanor sentences.

Judge Wilkerson, in ordering the defendant to prison immediately, said that if the higher courts should reverse the verdict on the felony counts, which charge evasion of income taxes for the years 1925, 1926 and 1927, Capone could be given credit for whatever time he had served, the credit to apply on the misdemeanor counts as well as his 6-month contempt of court sentence.

Capone was charged in the indictments with evading $215,000 taxes on a 6-year income of $1,038,654. The jury convicted him of evasion for only three years, however, on a $357,285 income in 1925, $195,677 income in 1926 and $218,054 income in 1927.

The two additional counts on which he was convicted were misdemeanors charging failure to file returns in 1928 and 1929. When Capone has served six months in Leavenworth he will be given credit for a contempt of court sentence of six months, passed by Judge Wilkerson last February.

This bulky, swarthy man, a notorious gangster for twelve years, internationally infamous head of his own syndicate for six, has spent less than one year in jail. The only previous term was in Philadelphia, where he served a little more than nine months of a 1-year sentence for carrying concealed weapons.

His notoriety as a ruthless gang leader figured only in the closing arguments of his income tax trial, and then briefly. Capone's attorneys said he was being persecuted to satisfy public clamor, that the government would have tried no other man on similar evidence and was merely trying to "get Capone." District Attorney Johnson told the jury he did not deny the "great public interest" in the trial, but he was not asking that body to consider it.

235

Kansas City Star K.
10-25-31

BLOW TO GANGLAND RULE

GOVERNMENT SCORES HEAVILY IN SENTENCE TO CAPONE.

Crime Leaders in Other Cities Are Expected to Feel the Lash of Federal Laws as Drive Continues.

(By the Associated Press.)

WASHINGTON, Oct. 24.—The government accepted Al Capone's sentence today as another milestone in its drive against gangland's flaunting of federal laws.

To agents who pit adding machines against more deadly gangster weapons, the successful prosecution of Capone was a new stimulus.

Elmer E. Irey, chief of the internal revenue bureau's special intelligence unit, said he was "pleased and satisfied" with the sentence, and added: "There will be no let-up in Chicago."

MAY GO TO SUPREME COURT.

Attorney General Mitchell refused to break the silence he has promised to maintain as long as the Capone case is in the courts. More legal fencing is expected with an eventual appeal to the supreme court, to which Ralph Capone, the racketeer's brother, has taken a sentence of four years for income tax evasion.

Irey, who conducted the investigation of Capone's case, said that with the criminal prosecution completed special efforts would be directed toward building up the civil case against the gangster.

Since the Capone investigation started on October 18, 1928, seven Chicago gang leaders have been convicted. Beside Al and his brother, Ralph, they include Jack Guzik, Frank Nitti, Sam Guzik, Terry Druggan and Frankie Lake.

SOME POLITICIANS INVOLVED.

Meanwhile, investigations of income tax frauds are progressing in New York City and Pittsburgh. Officials have declined to disclose the identity of those under investigation beyond saying gangsters, racketeers and some politicians are involved.

While gratified over their success against tax doggers, officials were quick to reiterate today that federal law violations are relatively minor in comparison with the flagrant disregard of state laws involving capital offenses and that state and municipal officials must co-operate to wipe out gang crime.

LIEN ON HIS "PALACE."

deral Government Seeks to Collect Unpaid Income Taxes.

(By the Associated Press.)

MIAMI BEACH, FLA., Oct. 24.—The federal government today blanketed Al Capone's lavish winter place here with a lien of $51,498.08 in its fight to collect $215,000 unpaid income taxes [illegible]

[illegible] Capone was sentenced in Chicago to serve eleven years in federal penitentiary and fined $50,000 for income tax payment evasion.

The barricaded white mansion of the gang chief entered court litigation for the third time as officials of the United States internal revenue department filed liens in both federal and circuit courts in Miami, naming Capone and his wife, Mae Capone, as transferees.

Eighteen months ago it was the subject of padlock proceedings, brought in criminal court in Miami after a raid by county officers netted a quantity of fine liquors.

Vincent C. Giblin and J. F. Gordon, at that time Capone's Miami attorneys, placed the gangster and other witnesses on the stand and defeated the padlock suit.

Later Giblin and Capone disagreed over attorney's fees and the lawyer attached furnishings, variously valued from $50,000 to $100,000, in the mansion. A reported settlement out of court halted the proceedings after some of the furnishings were removed to a storage warehouse.

Kansas City Star PR
10-24-31

Ill-Gotten Wealth Begins to Vanish, Too.

CHICAGO, Oct. 24.—Some of the wealth Al Capone has flaunted in the face of the law from Chicago to Florida today was being stripped from the gangster who now is on the way to prison.

While liens were filed against Capone's Chicago property, advices from Jacksonville, Fla., said similar action had been taken against the palatial winter home of Capone at Palm Island, near Miami Beach. The government is seizing the property to pay the $215,000 delinquent income tax which figured in the gangster's trial. But that is not all the gangster owes the government, the total figure being estimated in excess of a million dollars. Penalties would add half again as much to the bill, it is said.

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OCT 29 1931 P.M.

AL CAPONE'S GUARD GETS SIX MONTHS

D'Andrea Sentenced to Jail for Carrying Loaded Gun Into Federal Court.

Star 10/31/31

By the Associated Press.

CHICAGO, October 28.—Phil D'Andrea, gun-toting bodyguard of "Scarface Al" Capone, was sentenced to six months in the county jail by Judge James H. Wilkerson today for carrying his loaded pistol into Federal Court.

D'Andrea had been in the county jail since October 16, when he was found carrying a loaded pistol in the court room. He had been sitting directly behind Capone every day of the trial until his arrest and yesterday, throwing himself on the mercy of the court, the bodyguard admitted he had carried the weapon daily.

Paroled for Two Weeks.

Judge Wilkerson said the presence of an armed man during the trial of Capone's income tax evasion case was a direct menace to the court itself and adjudged D'Andrea guilty of contempt of court.

A two weeks' stay of execution was granted and D'Andrea was paroled to Michael Ahern, his and Capone's lawyer.

Before sentencing D'Andrea, Judge Wilkerson said it was clear he was a member of an "outlaw gang" which had conspired to intimidate Government witnesses in the Capone trial, but had caused defense witnesses to perjure themselves.

"This gang," the court said, "exercised a control over people with whom it came in contact that resembled nothing less than insurrection against the laws of the United States.

"I would have been totally blind had I not noticed the intimidation of witnesses. Time and again I noticed witnesses faltering on the stand."

Judge Charges Perjury.

Judge Wilkerson said the closing days of the trial, when the defense brought on a series of bookmakers to testify concerning Capone's losses on horse races, disclosed a "shocking array of perjury," which was of itself much worse than D'Andrea's offense. He said the witnesses were summoned to the Lexington Hotel, "the camp of this outlaw band," and instructed to perjure themselves.

D'Andrea was given a stay of execution after Attorney Ahern told the court his mother was ill. Ahern said she had not been informed of her son's troubles with the Federal Government and asked that D'Andrea be paroled so that he could go to his mother without being accompanied by a marshal.

In the meantime Capone remained in the county jail while his attorneys decided what to do next.

Is Kept in Jail.

Granted a supersedeas that allowed him to stay out of the penitentiary during appeal to the Supreme Court, but denied bail, the gangster was ordered kept in custody with no credit toward his 11-year sentence in Leavenworth for tax evasion. No deduction will be allowed for the time he spends in jail.

Attorney Ahearn said he might go to Washington to apply for bail to Justice Van Devanter, the Supreme Court member assigned to the seventh judicial circuit. If he were refused bail, Ahern indicated that he might ask to have the writ of supersedeas vacated, so Capone could be taken to Leavenworth to start serving his sentence, pending further legal action.

While Capone's lawyers were working for him, the gang leader remained in a hospital ward cell on the fifth floor of the jail. He eats the jail's cornmeal mush or oatmeal with his morning coffee and stewed fruit, but has his luncheon sent in by his family.

Washington D.C. Star 10/28/31

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257

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CAPONE GUNMAN GIVEN 6 MONTHS

GETS RESPITE FOR TWO WEEKS

Mother's Illness Responsible For Stay: Occasion Used By Court to Flay Scar-Face

CHICAGO, Oct. 28 (I.N.S.).—Six months in jail was the penalty levied today on Phil D'Andrea, Capone bodyguard, for carrying a revolver while attending the gang leader's funeral last night.

In sentencing D'Andrea, Federal Judge James H. Wickersham took occasion to assail Capone as the leader of an insurrection against the United States, and attacked the gang leader for forcing defense witnesses to commit perjury at his trial.

The jurist referred to Capone's call for witnesses to attend a meeting at the Lexington Hotel where their testimony was discussed.

D'Andrea virtually had thrown himself on the mercy of the court.

At the behest of defense attorneys, the court granted D'Andrea a two weeks' stay of execution because of the serious illness of his mother.

Washington Times.
10-28-31.

NOT RECORDED
69-180

238

Washington Times
10/28/31

CAPONE LIKELY TO GO TO PEN AT ONCE

Wants to Get Credit for Time He Must Serve While His Appeal Is Being Decided On

CHICAGO, Oct. 28 (I.N.S.). Al Capone may capitulate to his adversary, the United States Government, and willingly go to Leavenworth penitentiary, his lawyers indicated today.

But this capitulation would be made only to avoid "wasting time" while his attorneys strive in the higher courts to win a reversal of the jury verdict finding him guilty of defrauding the Government out of his income tax.

Bail Plea Denied

The possibility that Capone may shortly ask to be taken to Leavenworth, where he is under sentence to serve a 10-year term, arose as a consequence of a ruling by the Circuit Court of Appeals, denying the gangster his liberty on bail.

The ruling, handed down yesterday, was that Capone must remain in the county jail [illegible] his appeal is disposed of, a matter of nearly two years if customary procedure is followed.

Thus, the appellate court's action in granting Capone's petition for a stay of sentence, while at the same time denying bail, is of no value to the convicted gangster's cause. Unless a court higher than the appellate orders Capone released on bail, he may voluntarily request to be sent to Leavenworth without further delay in order to receive credit on his sentence should his appeal be denied.

Case May Shift Here

Michael Ahearn, the gangster's attorney, intimated he may go to Washington and ask Supreme Court Justice Van Devanter for an order admitting his client to bond and vacating the appellate court's writ.

If customary procedure prevails, Capone's appeal may be argued before the appellate court in about two months and a decision rendered probably next February. If the appellate court rejects the appeal, another year will probably be consumed in filing and arguing the appeal before the United States Supreme Court.

Meanwhile, Capone spends much of his time in his tiny jail cell, amusing himself with solitaire.

Chicago, Illinois

November 3, 1931

RECEIVED

Hon. George E. C. Johnson
United States Attorney
Federal Building
Chicago, Illinois

Dear Sir:

On November 3, 1931, a party giving his name as [redacted] Chicago, called by telephone and stated that he was an old resident of St. Joseph, Michigan, and that information had come to him indicating that Philip D'Andrie, alleged body guard of Capone, was the owner of some property in St. Joseph, Michigan, and was known to own a farm or a resort immediately adjoining [redacted] owned or rented by Fred Burke, notorious outlaw. [redacted] further stated that Capone was the owner of a hotel in Benton Harbor, Michigan. [redacted] stated that Sheriff Fred Cutler of St. Joseph, Michigan, could give considerable information relative to the holdings of the above parties in St. Joseph and Benton Harbor, and that Sheriff Cutler was entirely dependable and could be relied upon to give correct information to the proper parties.

b7D

The above is submitted for your information and any disposition you see fit.

Very truly yours,

W. A. McGRAIN,
Special Agent in Charge.

LPG:RS
cc-Bureau

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U. S. Department of Justice

Bureau of Investigation

Washington, D. C.