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The Grand Jury's Powers

WHEN Joseph S. Fay, labor boss, was acquitted of income tax evasion by a trial jury in the United States District Court at Newark on January 15, Attorney General Clark initiated personal inquiries and thereafter assigned one of his Washington staff to make a fuller investigation. As income taxpayers in this jurisdiction understood it, Mr. Clark was intent upon ascertaining whether or not United States Attorney Rossbach had prosecuted Fay's trial with vigor, competence and alertness.

Not much has been heard of Attorney General Clark's inquiry in the intervening days. But now a superior investigatory agency, to wit, the United States Grand Jury that indicted Fay, is about to take over.

In an extraordinary and perhaps unprecedented action, the Grand Jury walked into the United States District Court where spokesmen informed Judge Fake of the jury's conviction that the Government's case against Fay had been "messed up" and that "the thing had been horribly handled." The Grand Jury wants to learn, in the words of Juror Kallenberg, "whether Mr. Rossbach, to mention names, was not derelict of duty, or whatever he could be charged with, malfeasance of office or something in that direction."

In short, the Grand Jury wanted to know what it could do about Mr. Rossbach's conduct of the Fay trial. Judge Fake told the assembled members they could investigate the case. Juror Kallenberg, pressing for more explicit instructions, said:

We have no way of knowing how to start an investigation, if we should want to. * * * We thought possibly you could tell us what could be done about it. We are not satisfied.

But Judge Fake gave the Grand Jury no further instruction or assistance. Therefore, with the permission of the court, let's supply some of the missing information for which the Grand Jury obviously was groping:

The Grand Jury's investigatory powers in the Fay case, or any case that comes before it, are practically unlimited.

The jury can call upon the Attorney General of the United States to assign for its guidance a United States attorney from another jurisdiction.

It can exclude Mr. Rossbach and any of his assistants from its sessions.

It has authority to call for the official court record of the Fay trial.

It can subpoena witnesses and inquire into the atmosphere prevailing in the court room during trial.

The Grand Jury can even attempt to solve the mystery of how Mr. Rossbach permitted a former member of Fay's union to qualify for service on the trial jury; or why a mistrial was not sought after the challenged juror had been detected and ousted in mid-trial.

It can indict, where evidence warrants, or it can make a presentment.

In a word, the grand jurors, within the scope of their oath, enjoy complete autonomy and unquestioned authority, beyond court restraint or interference, to give the Fay case the thorough going over that the attendant and bizarre circumstances warrant.

Cold Shoulder

reserved full freedom of action for the future.

What that future will be is wrapped up in the future of our relationships with Soviet Russia and with the fate of all Europe. The Polish Provisional Government, as Russia's pawn, can be under no illusion about what the President of the United States thinks of it.

As Pegler Sees It

Clark Responsibility In Fay Case Studied

By WESTBROOK PEGLER

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THE ACQUITTAL OF TWO of the foulest rascals in the union racket, Joe Fay and Ben Pross, in Federal District Court, in Newark, N. J., has aroused more than passing notice. Indeed, Tom Clark, the Attorney General in Washington, said he regarded the conduct of the Government's case in the Fay trial as a "—damned outrage" and ordered an investigation of the office of Edgar H. Rossbach, the U. S. attorney who allowed a recent member of Fay's own union, the operating engineers, to sit on the jury.



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The farce, or "—damned outrage," in the Fay case occurred nevertheless after a warning signal had been flown in these essays and after Mr. Clark's personal attention had been directed to the job in the course of a ride in his car from his office to his dentist's studio.

In that conversation, Mr. Clark expressed no misgivings concerning Judge Thomas F. Meaney, who presided over both the Pross case and the "—damned outrage," but he did say he wasn't so confident of Rossbach, who had "given us a lot of trouble." The trial was in progress at the time.

Mr. Clark was deeply preoccupied with the John L. Lewis case just then. But, busy as he was, he should have moved to forestall the "—damned outrage" by sending to Newark Government counsel in whom he had strong confidence. However, it was very late in the game for that because preparation for trial and investigation of the prospective jurors are not tasks of an hour or a day. Clark may have felt some embarrassment because he personally had vouched for Rossbach when his nomination was questioned, but the feelings of a Cabinet officer in such a matter carry no legitimate weight with the public.

FAY WAS ACQUITTED of cheating on his income tax on graft extorted from contractors on enormous Government jobs. Although the Treasury's evidence presented to Rossbach was strong, presentation may indeed have been such as to justify the jury's verdict and Clark's anger.

In an earlier prosecution on a charge of sluicing rationed whisky into the black market around military training camps in Southern States during the war, Pross had been acquitted, even though he couldn't take the stand lest his evil record as an inveterate criminal be disclosed.

Another case is still pending in which Mr. Clark now may be moved to vigorous, efficient conduct lest another "—damned outrage" occur.

This involves the indictments of Joe Moreschi, the international president of the Hod-Carriers and Common Laborers' Union, and eleven others. It is right before Mr. Clark's eyes in the Federal District Court of Washington, D. C., and the delays and other peculiarities thus far justify apprehension.

The expose began several years ago when I discovered that a gang of local Washington union racketeers, who ran a night club as a sideline, had been arrested by the Treasury for hiding a big store of liquor in a false room under a sidewalk to evade the Government's tax. They claimed the booze belonged to the union and was being held for a glorious souse party to celebrate the burning of the mortgage on the union headquarters. There was liquor enough in this cache to plaster not only the entire local membership but all the mooching free-loaders of the New Deal, the cocktail clientele, male and female, of the Mayflower, Statler and Shoreham, and the civil and military staffs of the Russian embassy.

I HIT IT ONE LICK and left town on other business. The Washington Daily News took it up from there and came up with a Grand Jury case. Indictments followed and a tenacious assistant U. S. attorney named John W. Fihelly indicated that he was determined to put up a magnificent brawl for convictions.

Larry Kelly, one of the local boss unioners, vanished and presently was reported by the FBI to have died aboard a merchant vessel in Australia. I have my doubts. This mob was racketeering on war construction for the Navy just outside Washington and the rackets included not only shakedowns but gambling and allied diversions of horny-handed bachelors in frontier camps. About \$500,000 was involved.

The indictments came down in March, 1944. It is now February, 1947, almost three years later. And, at this time, we find Mr. Fihelly engaged in prosecuting Jap war criminals as assistant to Joseph B. Keenan, an old New Dealer, who appeared as counsel for the defense in the Kelly-Moreschi case in Washington.

This union's locals in many areas were among the most spectacular shakedown rackets operated against American workmen during the war. They charged farmers and pick-and-shovel hands \$50 for initiation and, on many jobs, the unhappy suckers were laid off and new ones initiated as soon as the initiation installments were paid.

LIKE PHIL MURRAY, of the CIO, who compared his paltry headaches to the passion of Jesus Christ, Moreschi, long a union colleague of brothel-keepers, thugs and thimble-