

(row) who had fallen through the ice at Lassau.

To Drop Probe Of Fay Trial

Jury Finds Reports by U. S. Officials End Need for Inquiry

The United States Grand Jury late yesterday unanimously adopted a resolution terminating unwarranted any further investigation of the handling of the Joseph S. Fay income tax evasion case, according to reports in federal circles.

The resolution is believed to have stated that in view of reports submitted yesterday by representatives of Attorney General Clark's office, agents of the Internal Revenue Bureau and United States Attorney Rossbach, no further investigation of the case is believed necessary.

It is reported that John M. Durling of 136 Seton place, South Orange, foreman of the jury, will present the resolution to Senior Federal Judge Fake in the latter's chambers today. Fake is expected to release the decision to the press.

Judge Left for Home

The jury apparently planned to present the resolution to Fake late yesterday, but the judge had left for home by the time the statement had been drawn up and approved. Shortly before the jury adjourned for the day, a member of Rossbach's staff advised reporters to "watch the third floor," inferring

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Coal Men Respect Teacher-Pickets

Buffalo Looks to Albany to Help Get Schools Reopened

BUFFALO, N. Y. (AP)—A boycott by AFL truck drivers, who refused to haul coal through picket lines, threatened today to close the 21 public schools remaining open despite a strike of 2,400 teachers.

Superintendent of Schools Robert T. Bapst said the 21 schools would open today but admitted that Lafayette High School, one of two high schools still functioning, had only a sufficient supply of coal to last until tomorrow. Technical High School, he said, had only enough coal to operate four or five days more.

The 19 elementary schools still open have sufficient coal on hand for from two to three weeks.

The city's other 77 schools were closed Monday when the teachers quit to enforce demands for an immediate \$500 cost-of-living bonus and a \$625 salary increase next year.

Teamsters' Decree

Bapst said the AFL teamsters' local had notified him its members would deliver coal to schools only if the temperature was kept down to 40 degrees, sufficient to keep pipes from freezing. Normal school room temperature is 70 degrees.

The strike was at a stalemate with both teachers and city officials looking to Albany for a solu-

Traffic Deaths Magee Hails Decline of 55, Reflects

Trenton Bureau. TRENTON—New Jersey traffic accident fatalities in January totaled 55, a 33 per cent drop below the toll of 83 in January, 1946, and far below the 88 deaths reported in January, 1941.

Reporting that today, Motor Vehicle Commissioner Magee termed the downward trend "welcome news to any one" and added:

"Let us continue the trend in its present downward direction by a complete observance of the rules of safety and a display of consideration for other users of the highways."

Magee said 37 of the victims were pedestrians, a high percentage that is normal in December and January when the daylight hours are shortest.

Campaign's Effect Seen

Reflecting the increasing safety-consciousness of New Jersey motorists since newspapers and public agencies began an intensive safety campaign a little less than a year ago, the January toll is far below most of the prewar years dating back to 1934.

Only in 1944 and 1945, when travel was far below this year's volume, were the tolls below the level of January, 1947. In 1944 the January toll was 53 and in 1945 it was 52.

In contrast, the 1943 toll was 86, in 1942 it was 99; 1941, 88; 1940, 61; 1939, 79; 1938, 74; 1937, 100; 1936, 59; 1935, 75; 1934, 102.

Essex County was among the leading counties showing a downward trend. This January there only six fatalities in Essex, as compared with 16 in January, 1946, and 10 in January, 1941.

County Comparisons

These tables show the picture for the three years:

| County | 1947 | 1946 | 1941 |
|------------|------|------|------|
| Atlantic | 1 | 4 | 2 |
| Bergen | 4 | 7 | 14 |
| Essex | 2 | 7 | 12 |
| Hudson | 2 | 7 | 6 |
| Camden | 2 | 2 | 1 |
| Cape May | 2 | 2 | 3 |
| Cumberland | 2 | 2 | 3 |
| Essex | 6 | 16 | 10 |
| Gloucester | 3 | 3 | 4 |
| Hudson | 4 | 1 | 7 |
| Hunterdon | 6 | 1 | 1 |
| Mercer | 5 | 5 | 10 |
| Middlesex | 2 | 7 | 6 |
| Monmouth | 2 | 4 | 3 |
| Morris | 2 | 2 | 2 |
| Ocean | 1 | 1 | 1 |
| Passaic | 1 | 1 | 1 |
| Salem | 1 | 1 | 1 |
| Somerset | 1 | 0 | 1 |
| Sussex | 3 | 3 | 4 |
| Union | 1 | 2 | 1 |
| Warren | 1 | 2 | 1 |
| Totals | 55 | 83 | 88 |

Announcement of the downward trend in January came a day after organization of New Jersey Safety Council, Inc., was revealed. The council, an outgrowth of the New-

Byrd Ship Coming Out of Ice Pack

Three Vessels Will Go to New Zealand for Six-Day Holiday

Combined American Press. ABOARD THE U. S. S. MT

NO. 19,569

Rossbach Is Cleared By Jurors

Fay Case Handling Efficient, Panel Asserts

The United States Grand Jury, meeting in open court before Senior Federal Judge Fake late yesterday, announced the end of its investigation into conduct of the Joseph S. Fay income tax evasion trial and declared prosecution of the case was "efficiently handled" by United States Attorney Rossbach.

Those decisions were contained in a resolution passed by the jury and read to the court by John M. Durling of 136 Seton place, South Orange, foreman. The resolution stated:

"In view of the public criticism of the prosecution of the Fay case, the Federal Grand Jury in all honesty, sincerity and as a public duty felt it to be its responsibility to properly investigate various aspects of the case.

Majority Opinion

"The Grand Jury has considered acts presented by the Attorney General's office, the Treasury Department and United States Attorney Rossbach; also pertinent transcripts of the trial.

"On the basis of information obtained and facts presented, the majority of the Grand Jury is of the opinion that the prosecution of the case by United States Attorney Edgar H. Rossbach was efficiently handled."

In a statement made after Durling had read the resolution, Rossbach referred to "the calumnies and unjustifiable remarks of a minority" of the jury. He stated that "this whole thing has been a terrible mistake and injustice."

Rossbach said: "Nobody objects to honest, fair, decent criticism. We are open to it, because we are in the public eye, and that comes from grand jurors, newspapers or anyone else. We are subject to it.

Scullery Maid Tactics

"But it is this scullery maid tactics of scandalism that not only invades an individual's life and his personal behavior but stultifies and pollutes the entire administration of the courts. That's the thing we are fighting against; that's the thing we are objecting to.

"And the only difference between an outright contempt of this court is the difference between this building and Market street, Newark; because if the same people who cover themselves up by a geographical distance would come in here and repeat the same things that they are willing enough to spread, they would certainly be in contempt, and I would be the first one to make an application that they be cited for contempt."

Rossbach's use of "Market street" apparently was a reference to The Newark News.

Albert I. Stiles of 43 Druid Hill road, Summit, one member of the jury who launched the investigation

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are reportedly lukewarm to him because he has not been active politically and Essex would be charged with his appointment in consideration of further state patronage.

Rossbach

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tion of the Fay case by attacking Rossbach's conduct of the trial in open court February 4, continued his opposition to the district attorney to the end. At the conclusion of Rossbach's statement, he declared:

Juror Not Swayed

"Mr. Judge, since Mr. Rossbach has been so kind as to refer to me at some length, I feel that the occasion calls for some slight reply. In my judgment he has made a most lamentable performance as district attorney. I feel that he is entirely incompetent for the position. I make no further discussion at this time at the request of my colleagues, who desire to terminate the matter."

Earlier in the day Stiles had provoked Rossbach into a demand for a "full investigation" of accusations made against him by the juror. It was after that demand that the jury withdrew to its chambers and passed the resolution absolving Rossbach of charges of inefficiency in prosecution of the Fay case.

The earlier public session yesterday was opened by Fake, who stated to the jurors: "As the record now stands, you have left Mr. Rossbach in the position of having a public statement made against him leaving him with no opportunity to meet the issue and defend himself in a judicial proceeding."

The judge declared such a situation constitutes an injustice, adding that it is "for you to say whether it is your considered opinion, in the light of the evidence before you, that the matter should be so inconclusively disposed of."

"An Exculpation"

At that point Stiles took the floor to offer the opinion that "the matter has not been pressed to a point where a definite conclusion would be desirable." The juror said:

"After we had left the matter in the hands of the Attorney General in Washington, there was a scurrying around for a couple of weeks, and then five gentlemen appeared before us.

"There was no investigation that they had to report. They simply had made, attempted to make, an explanation of what had occurred. Or perhaps, I might more accurately say, an exculpation. At that session various statements were made to us which I believed to be erroneous, both as to law and as to the facts in the case."

Stiles subsequently asserted that there are "five or six other matters which have come before this jury in the course of our service of more than four months which in my judgment require investigation." He said he regarded the Fay case as "merely an example of things that are being repeated day after day in this jurisdiction."

Breach of Oath Charged

Rossbach promptly attacked Stiles for presenting his accusations in the form of "generalities." He added that perhaps Stiles "represents something so that they don't want it to take the form of a specific, decent, honest, bona fide accusation that I am permitted to meet and answer."

The district attorney also charged that one or more members of the jury have passed information on secret sessions along to the press. He described such persons as those "who think so little of the oath that he or she or they have taken that they are willing to prostitute it in the first instance by revealing things that they have pledged your honor that they would keep secret."

Rossbach added: "I have never seen an exhibition of such deliberate purpose to scan-

dalize anyone without being able or willing to prove it. I have never seen such a purposeful campaign foolishly undertaken. Mr. Stiles didn't have the bull by the horns; he found himself with a bull by the tail; and maybe now he can't let go.

Demands Inquiry

"I don't know where his prompting has come from, but he has been misled into a situation where I now take the position, Judge Fake, that I demand—and I have a right to demand—that a full and complete inquiry be given into the charges, any charges, that Stiles wants to make—here, now, anywhere—and I'll take the stand, and I'll testify, and I'll meet him. Any oath that he will ever take, I will take, and I will testify as to those charges."

Rossbach asserted that he has "never done one single thing in the performance of my official duties of United States attorney that would cast any reflection or shame upon you, Judge Fake; upon any of the judges in this district or in this circuit or upon the institution of the administration of justice which this building represents."

NO. 19,579

Fay Faces Civil Suit On Taxes

New Action Planned Over Payments by Contractors

BY ARTHUR SYLVESTER
Washington Bureau.

WASHINGTON — General Counsel Joseph J. O'Connell Jr. of the Treasury Department has assured a House appropriations sub-committee

that if normal procedure is followed civil action will be instituted against Joseph Fay, Newark labor leader, to recover unpaid income taxes. The committee has received the same reaction from Commissioner of Internal Revenue Joseph B. Nunan Jr.

The Treasury official told the committee headed by Representative Gordon Canfield (R., N. J.), that the 54-year-old vice president of the International Union of Operating Engineers, AFL, is liable for the \$118,000 in taxes despite his acquittal by a Federal jury in Newark of charges of evading the tax.

In addition, Fay can be assessed 50 per cent fraud penalty and interest on the uncollected amount estimated at upwards of \$118,000.

Amazed at Acquittal

Action by the jury in freeing Fay of the criminal charges "came as a surprise" to him, O'Connell told the committee. The general counsel added that although "the jury came in with an acquittal, to our amazement" there was nothing in the case to prevent the department from proceeding civilly against Fay "because he owes us taxes."

Fay's right in the event, O'Connell informed the committee "would be to dispute the tax and go to the tax court and the tax court would decide who he owes us as a civil liability."

Referring to the completion of the criminal action against Fay, O'Connell said: "The civil liability awaits the event in the criminal case, never do we attempt to collect a civil liability which the taxpayer owes until the criminal action has gone the route and has been terminated one way or the other."

Issue Is Raised

Records of Canfield's committee show that members got into the Fay case extensively during consideration of the internal revenue budget when discussion turned to the prosecution of income tax cases by the Department of Justice.

The issue of the next step on Fay was raised by Representative Dirksen (R., Ill.), who questioned both O'Connell and Nunan at length on what action they take when "a case is tried and the final result is so completely at variance with the finding of the Treasury."

Income tax fraud cases are worked up by Internal Revenue and turned over to the Department of Justice to determine if criminal action should be taken and if so to conduct the trial.

Consternation at Result

Dirksen remarked in opening up on the Fay trial that "the case I understand was tried before the Hon. Thomas E. Meaney, United States district judge holding court in New Jersey and he came up with a very interesting result before they got through."

As a matter of fact, remarked Dirksen, "there seemed to be a good deal of consternation at the way the Department of Justice finally came out with the case."

Dirksen was interested in the possibility that the Treasury might compromise Fay's