



TREASURY DEPARTMENT

INTERNAL REVENUE SERVICE

INTELLIGENCE UNIT

Washington

(Name of Division)
SI-7085-F
FJW-BPN

December 21, 1933.

Chief, Intelligence Unit,
Bureau of Internal Revenue,
Washington, D. C.

In re: Alphonse Capone,
Lexington Hotel,
2300 Michigan Boulevard,
Chicago, Ill.

The above numbered case relates to the evasion of income taxes by Alphonse Capone, Lexington Hotel, 2300 Michigan Boulevard, Chicago, Illinois, for the years 1924 to 1929, inclusive. The case is based on a special report of Special Agent in Charge A. P. Madden dated October 15, 1928, and was jacketed and referred to the Chicago Division on October 18, 1928. On May 19, 1930, the case was referred to me and I was ordered by you to proceed to Chicago to conduct the investigation under your direction. Special Agents Nels Tessem of the Chicago Division, M. F. Malone of the Washington Division, James N. Sullivan of the New York Division and Revenue Agents W. C. Hodgins of the Chicago Division, H. N. Clagett and J. C. Westrich of the Brooklyn Division, were assigned to cooperate with me throughout the investigation. Special Agents C. L. Clarke and Joe J. Brown of the Florida Division also cooperated during part of the investigation and other agents were called upon from time to time to assist on the case. During the investigation of this case it became necessary that we make concurrent investigations of evasion of taxes by other principals in the Capone organization and evidence was secured which resulted in the conviction or pleas of guilty of Jack Guzik, Sam Guzik, Frank Nitto, T. J. Druggan and Frank A. Lake. An indictment was secured against Louis Lipschultz, a member of the organization and a brother in law of Jack Guzik. The investigation was made at Chicago, Illinois, Leavenworth, Kansas, St. Louis, Missouri, Miami, Florida, New York, Washington, D. C., and other points from May 23, 1930 to October 30, 1931.

There is submitted herewith as Exhibit No. 1, a copy of the report of Revenue Agents Hodgins, Clagett and Westrich dated July 8, 1931, in which they recommended tax and penalties as follows:

SI-7085-F

<u>Year</u>	<u>Income</u>	<u>Tax</u>	<u>Penalties</u>	<u>Tax and Penalties</u>
1924	\$123,101.89	\$ 32,488.81	25% \$8,122.20 50% 16,244.40	\$ 56,855.41
1925	257,339.55	55,378.64	25% 13,844.66 50% 27,689.32	96,912.62
1926	195,676.00	39,962.75	25% 9,990.69 50% 19,981.38	69,934.82
1927	218,056.04	45,557.76	25% 11,389.44 50% 22,778.88	79,726.08
1928	157,202.59	30,054.40	25% 7,513.60 50% 15,027.20	52,595.20
1929	103,999.00	15,817.76	25% 3,954.44 50% 7,908.88	27,681.08
	<u>\$1,055,375.07</u>	<u>\$219,260.12</u>	<u>\$164,445.09</u>	<u>\$383,705.21</u>

This office concurs in the tax recommended by the revenue agents.

There is submitted herewith as Exhibit No. 2, a confidential report dated July 8, 1931, of Revenue Agents Clagett, Westrich and Hodgins, in which they refer to the reputation and previous history of the taxpayer and set forth the basis for the tax determined.

At Chicago, Illinois, on March 13, 1931, a secret Federal Grand Jury indictment was reported against the taxpayer covering an attempt to evade and defeat an income tax of \$32,439.24 imposed by the Revenue Act of 1924 on a net income of \$123,102.89, earned by him during the year 1924. A copy of the indictment is submitted herewith as Exhibit No. 3. On June 5, 1931, at Chicago, Illinois, the taxpayer was indicted by the Federal Grand Jury for attempt to evade and defeat the income tax covering the years 1924 to 1929, inclusive. The indictment contained twenty-two counts and charged wilful attempts to evade and defeat income taxes for the years 1925 to 1929, inclusive (felonies), and failure to file returns for the years 1928 and 1929 (misdemeanors). A copy of the indictment of June 5th is submitted as Exhibit No. 4.

Counts one to four, inclusive, cover the year 1925 and charge a wilful attempt to evade and defeat an income tax (and the payment of the tax) in the sum of \$55,365.25 imposed by the Revenue Act of 1926 on a net income of \$257,285.98 earned by the defendant during the calendar year 1925.

Counts five to eight, inclusive, cover the year 1926 and charge the defendant with the wilful attempt to evade and defeat an income tax (and the payment of the tax) in the sum of \$39,962.75 imposed by the Revenue Act of 1926 on a net income of \$195,676.00 earned by the defendant during the calendar year 1926.

SI-7085-F

Counts nine to twelve, inclusive, cover the year 1927 and charge the defendant with the wilful attempt to evade and defeat an income tax (and the payment of the tax) in the sum of \$45,557.76 imposed by the Revenue Act of 1926 on a net income of \$218,056.04 earned by the defendant during the calendar year 1927.

Counts thirteen to seventeen, inclusive, cover the year 1928. Count thirteen charges that the defendant wilfully failed to make a return of income (a misdemeanor) for that year. Counts fourteen to seventeen, inclusive, cover the year 1928 and charge the defendant with the wilful attempt to evade and defeat an income tax (and the payment of the tax) in the sum of \$25,887.72 imposed by the Revenue Act of 1928 on a net income of \$140,535.93 earned by the defendant during the calendar year 1928.

Counts eighteen to twenty-two, inclusive, cover the year 1929. Count eighteen charges that the defendant wilfully failed to make a return of income (a misdemeanor) for that year. Counts nineteen to twenty-two, inclusive, cover the year 1929 and charge the defendant with the wilful attempt to evade and defeat an income tax (and the payment of the tax) in the sum of \$15,817.76 imposed by the Revenue Act of 1928 on a net income of \$103,999.00 earned by the defendant during the calendar year 1929.

The felonies charged are in violation of Sections 1114 (b) of the Revenue Act of 1926 and 146 (b) of the Revenue Act of 1928, and the misdemeanors charged are in violation of Section 146 (a) of the Revenue Act of 1928.

The important facts upon which the tax indictments were based are as follows: The defendant, during the years 1924 to 1929, inclusive, was a partner in a syndicate or partnership engaged in illicit profit-making enterprises. The defendant was the leader of the syndicate and received one-sixth of the net profits from its activities. During the years in question the defendant's net earnings from the sources indicated included the following:

For the year 1924 - \$	123,102.89
For the year 1925 -	257,285.98
For the year 1926 -	195,676.00
For the year 1927 -	218,056.04
For the year 1928 -	140,535.93
For the year 1929 -	103,999.00
Total net income for the six years	\$1,038,655.84

SI-7085-F

The defendant received income in the form of cash, sometimes checks, and, on many occasions, wire transfers of money by Western Union. The defendant, Alphonse Capone, had never filed a return for the years covered by the indictment and had never paid any tax on any of the income earned during those years.

The foregoing facts were established by evidence largely circumstantial in character. The defendant had no bank accounts, kept no book records of activities, bought no property in his own name, and, with the exception of wire transfers of money by Western Union and an occasional check, conducted all of his financial dealings with currency only. The evidence of the government, therefore, comes principally from the mouths of those who dealt either with the organization or with the defendant, and the entire situation is made clear only by piecing together many separate facts and circumstances, among which are included some admissions of income made by the defendant himself.

On June 16, 1931, the taxpayer appeared before Federal Judge James H. Wilkinson and pleaded guilty to all counts in each indictment. On August 1, 1931, the defendant was allowed to withdraw the pleas of guilty and the case was set for trial on October 6, 1931.

The income of the taxpayer was derived from gambling, houses of prostitution and bootlegging. He was referred to by his associates in the newspapers of this country and abroad as the "Colossus of Racketeers", "King of Gangdom" and the "Big Shot". Although his income was secured wholly through the illegal activities of a large organization of which he was the leader, his activities had not been seriously interfered with by city, county or state authorities. His immunity was explained by statements of members of his organization that all of their activities were protected on account of large graft payments made by them to insure the unmolested conduct of their various businesses.

One of the largest sources of income of the taxpayer was from gambling establishments in the City of Cicero, Illinois, a suburb of Chicago. Since the election in the spring of 1924 the Capone organization has operated in that city without serious interference. There is submitted herewith as Exhibit No. 5, a photostatic copy of the book in which the daily profits of the Hawthorne Smoke Shop, later known as The Ship and The Subway, a gambling establishment conducted by the taxpayer in Cicero, were kept. This place was first operated on May 1, 1924, and the business continued at various

SI-7085-F

points in Cicero for approximately five years. The establishment was first located in the Western Hotel, #4837 West 22nd Street, and later at numbers 4818, 4838, 4835 and 4738 West 22nd Street, Cicero, Illinois. This book reflects a net profit from the business covering the period of May 1 to December 31, 1924 of \$300,250.95; from January 1 to December 31, 1925, of \$117,460.00, and from January 1 to April 26, 1926, of \$170,011.00. On the night of April 26, 1926, Assistant States Attorney for Cook County W. H. McSwiggin, was murdered in Cicero, Illinois. Mr. McSwiggin had a few months before interviewed witnesses in a murder case in which Capone was alleged to be involved. Al Capone was accused of the McSwiggin murder and the police raided his Cicero gambling establishment on that date. This book was found in the safe of the establishment by the police during the raid and it was turned over at that time together with other records seized, to Special Agent P. F. Roche of the Chicago Division. As no tax case was then pending against Capone, no use was made of this book and it was filed in the Chicago office. After this investigation had proceeded for several months during which time a careful search was made in Chicago, Cicero and other cities, for records relating to the income of the Capone organization, this book was accidentally discovered by the writer in a miscellaneous lot of apparently unimportant papers left by Mr. Roche when he resigned from the government service. The book had no identification marks upon it and its value as evidence relating to the income of Alphonse Capone had not been realized. After a thorough analysis of the entries in the book it was evident that it was the daily record of a large gambling business. A careful comparison of the entries in it with specimens of the writing of various members and employees of the Capone organization established that most of the writing in it was that of Mr. Leslie A. Shumway and that a small part of the entries were made by Peter Penovich, Jr., and Ben Pope. Investigation by us then established that Messrs. Shumway, Penovich and Pope had been the managers and cashiers of the Hawthorne Smoke Shop, a gambling establishment conducted in Cicero during the years covered by the entries in this book.

in the front of the store by "Knock-out" Brown and the rest of the store was used for the gambling business. This business consisted of taking bets on horse races, roulette wheel, craps, twenty-one game and poker. There were approximately from 40 to 50 persons employed in the business. The business at times was moved to 4838, 4818 and 4738 West 22nd Street, the Subway and upstairs over the Subway. All of these various places were in Cicero, Illinois. The business was conducted by the same employees and the same owner at each of these places. In addition to the business conducted at these places, the business also conducted a book on the horse races at the Hawthorn Race Track.

"When I first started to work in this business I was hired by Frank Pope, who was manager of the horse race branch of the business. Pete Penovich was manager of that part of the business relating to games of chance, such as roulette, twenty-one, craps, poker and so forth. Orders and directions relating to my work in this business were issued to me by Frank Pope and Pete Penovich, whom I recognized as my superiors, and the only other person whom I recognized as an owner of the business and from whom I took orders relating to the business was Mr. Alphonse Capone. On one occasion (May 16, 1925) I was present in our gambling establishment when a raid was made on the place by law officers who were accompanied by a minister, Rev. Mr. Hoover. The raid took place about noon and I was in charge of the establishment, as Frank Pope and Pete Penovich had not yet reported for business. I was in the office and the raiding officers entered the office. The raiding officers were going to take possession of the bank roll or currency which we had on hand to do business with. Mr. Alphonse Capone then appeared dressed in his pajama pants and coat. He objected to the officers taken the currency on hand and directed me to take possession of the cash. I carried out his instructions because I recognized and regarded him as one of the owners of the business. Mr. Al Capone came into the establishment on frequent occasions. He did not stay in the part of the establishment where the patrons conducted their business, but he came to the office and talked with Frank Pope and Pete Penovich, the active managers of the business. At times he personally made bets with the establishment and was extended credit. Shortly after I was first employed in this business I was present one evening when some men, whom I believed to be the owners of the business, were in the office.

"They were Mr. Louis Alteria, Jack Guzik, Dion O'Bannion, Louis La Cava, John Torrio and Alphonse Capone. Mr. Pete Penovich and Frank Pope were also present that evening. As the men mentioned desired to discuss some confidential matters relating to the business, I was requested by Pete Penovich to leave the office, which I did.

"Some of the employees at the establishment were Frank Miliano, Frank McGreevy, George Rogers, George Baer, Jimmy Stanton, Joe Faulkner.

"During most of the time I was employed in this business, it was my duty to keep a daily record of the establishment in a cloth bound book. One page of this book was used to cover the business for each month, and I made daily entries in this book showing the daily net profit or net loss from the races, the wheel, twenty-one game, poker, craps and so forth. I arrived at the entries entered in this book from written memorandums furnished to me daily showing the net gain or net loss from each branch of the business for the day. The salaries and other expenses of the business were deducted from the day's receipts each day and the entry entered by me in the book record was the net profit or net loss of each branch of the business. I also checked the cash on hand each day in order to verify my book records with the currency on hand for the bank roll. On a very few occasions the cash did not exactly balance but the difference was a very small amount.

"I have to-day been shown a cloth bound book containing records of the business from May 1, 1924, to April 27, 1926, and I can definitely state that this is the book containing the records which I kept relating to the gambling business in Cicero which I have referred to in this affidavit. I have also been shown photostats of the monthly sheets in this book, upon which sheets I made the entries, and for the purpose of identification I have written my name on the reverse side of these sheets. The sheets upon which I made the entries in this book include the months of January to December, 1925, and January, February, March and April of 1926. I did not make the entries on the sheets for the months of May to December, 1924, but I was directed by Mr. Pete Penovich to perform work upon these sheets and I did check them, as my individual check mark and footings which I recognize, appears upon them. All the daily entries on

"the monthly sheets in this book correctly reflect the net profits or net losses of this business conducted at various places mentioned above during the periods referred to. The profit or surplus cash was not distributed by me. I worked on a salary and did not, at any time, receive any percentage of the profits except a small percentage I got on a pan game. During the summer of 1925, the business conducted a book on the horse races at the Hawthorn Race Track, and I assisted Frank Pope on that book at the Hawthorn track for two days. The profits from the book conducted at the race track in 1924 are reflected in the book record which was kept, but the profits from the betting at the Hawthorn Race Track in 1925 are not reflected in the book record which I kept. Frank Pope kept track of the profits or losses resulting from the race track book conducted at the Hawthorn track in 1925.

"I have been shown a sheet in the cloth bound book which I kept, which sheet is marked 'Expenses June 1925'. This sheet is in my writing and indicates that the monthly overhead for salaries, rent, lights, telephone, wire rent, shills, cigar clerks, floor and outside men and similar expenses of all departments of the business amounted to \$24,622 for that month. The expenses for each department or branch of the business were deducted daily from the gross receipts of each department or branch of the business, and the daily entry which I made in the book record is the net profit or net loss of each department or branch of the business. Mr. Ben Pope was also employed by this business. I was sick from February 26 to March 4, 1926, and he made the daily entries in the book record during that period. Mr. Pete Penovich discontinued his connection with the business a few months before the business was closed, and after Penovich left Frank Pope was the manager of the business. Mr. Frank Pope was assisted by his brother, Ben Pope, and by myself. Assistant State's Attorney W. H. McSwiggen was killed in the spring of 1926, and shortly after that I was informed by Frank Pope that the gambling business would have to be closed (April 26, 1926).

"During the period I was employed by this gambling business, many bets were made by wire with book-makers in various cities. If our establishment lost we would send a check to the out of town book-maker, and if we would win we would receive a check from the out of town book-maker. Many of the checks which we received were deposited to the credit

"of Frank Pope in the Finkert State Bank, and many of the checks received were cashed by me at the Pinkert State Bank at Cicero. These checks would come to Frank Pope and I was authorized by him to endorse his name on checks to be cashed or deposited. I have been shown certain deposit slips for the account of Frank Pope in the Pinkert State Bank which were written by me. These deposits represent the business of the gambling establishment. When our establishment lost the bets which we made with out of town book-makers, we sent them a check to cover the loss and the check was drawn on a bank account which was kept at the Pinkert State Bank in the name of Frank Pope.

"The book record of the business in which I made the daily entries was kept in a cabinet, and the only persons who had access to this book or who made entries in it were Mr. Peter Penovich, Mr. Frank Pope and Mr. Ben Pope.

(Signed) LESLIE ALBERT SHUMWAY,
1358 Penn Ave.,
Miami Beach.

Subscribed and sworn to before me
this 18th day of February, 1931.

(Signed) FRANK J. WILSON,
Special Agent; Bureau of Internal Revenue.

(Signed) CHAS. W. CLARKE, Spec. Agt."

There is submitted herewith as Exhibit No. 7, a schedule prepared by Mr. Shumway from the book record showing the net profit by months and years during the period he was connected with the Capone gambling establishment. This book establishes a net profit of \$587,721.95 covering twenty-four months business reported in it.

The night that Assistant States Attorney McSwiggen was murdered in Cicero, Alphonse Capone disappeared and an extensive search for him by Chicago Police and Cook County Detectives was unsuccessful. After several months he was located by agents of this Unit and turned over to the Police Department of Chicago, Illinois. They then announced that they had no evidence upon which they could hold him for the murder of McSwiggen. The gambling establishment in Cicero was closed on the night

of the murder (April 26, 1926) and the employees and members of the Capone organization promptly left Cicero as the police publicly announced that the Capone gang would be cleaned out of that town. The day after the murder Frank Pope, the manager of the gambling establishment instructed Shumway, the cashier, to return to Cicero and secure the surplus cash on hand from the gambling business which cash was kept by Shumway and Pope in a large safe in the Western Hotel. Shumway secured the cash in the safe amounting to \$84,000.00 and took it to the Chicago home of Frank Pope. They then proceeded to the Atlantic Hotel where the entire sum was turned over to Jack Guzik, Louis La Cava and Frank Nitto. Frank Pope then demanded 18% of the \$84,000.00, which as manager of the gambling house was his share of the net profits, and he was told that he would have to wait for it. He later made other demands for his share but claims he never was able to collect it. Within a few months the gambling business in Cicero was reopened at the same address and Frank Pope was again employed as manager. He only stayed about a week because he said that he then realized that the Capone organization did not intend to give him his share of the \$84,000.00 surplus remaining undivided on April 26, 1926.

There is submitted herewith as Exhibit No. 8, a sworn statement dated March 10, 1931, made before me by Reverend H. C. Hoover of Berwyn, Illinois, relating to statements made by the taxpayer during and after a raid conducted by Deputy Sheriffs of Cook County and members of a citizens organization of which Mr. Hoover was the president, on the Hawthorn Smoke Shop, the gambling establishment conducted by Capone at 4818 West 22nd Street, Cicero, Illinois, on Debery Day, May 16, 1925. He states that in 1925 he was president of the West Suburban Citizens Association of Cook County; that this association secured information that a gambling establishment was being conducted at 4818 West 22nd Street, Cicero; that he and other members of the association accompanied Deputy Sheriffs lead by Lt. Davidson, in a raid on the joint on May 16, 1925; that guards were placed at all doors by the Deputy Sheriffs; that within a few minutes after the raid Al Capone appeared accompanied by some of his followers and that Al muttered threats against him saying "It is the last raid you will ever pull". Capone then went to the cash register and took out the money on hand, and Mr. Hoover asked of the bystanders, "Who is this man". Capone spoke up and said "Al Brown, if that is good enough for you", also, "Why are you fellows always picking on me". Mr. Hoover further stated that:

"Muttering and grumbling, Capone went out and disappeared down the stairs. Some time later, possibly twenty or twenty-five minutes, he re-appeared, neatly dressed and shaven and clothed

" in an entirely different spirit. While I was in the rear room attempting to 'phone to the Berwyn police station for a patrol wagon, Capone came back into the rear room and said, 'Reverend, can't we get together?' I said, 'What do you mean, Mr. Capone?' He said, 'I give to churches, and I give to charity,' and I said, 'Well just what do you mean?' He said, 'Now I don't mean money, but if you will let up on me in Cicero, I will withdraw from Stickney.' I said, 'The only understanding, Mr. Capone, you and I can ever have is that you must obey the law or get out of the western suburbs.' The conversation closed at that point.

Later, when the gambling apparatus was being removed from the building, a man by the name of Smith, who claimed to be the proprietor, said to me, 'Now Reverend, you have enough for evidence, why not leave these forms and the rest of this apparatus here?' 'Everything goes' I said, to the Sheriff's deputies. At that point, Al Capone, who was standing near said, 'Well this belongs to me', pointing to a valuable piece of gambling apparatus. 'That goes too' I said.

My suggestion at that time to the police officers was that Capone be arrested, but he slipped out.

"Q. What is your recollection as to whether you did sign a warrant for his arrest?

"A. It is not clear, but they left everything to me that day. However, there would be records of it, I suppose. There was a warrant signed, and it occurs to me that I signed it. I was President of the West Suburban Ministers' Association, and I took the responsibility for everything.

"Q. Did you discontinue or drop the prosecution because you felt that perhaps some of your operators might be put in jeopardy?

"A. Yes. They had already been beaten and assaulted.

"Q. Were some of your operators assaulted at the time of this raid by some of Capone's followers?

"A. Yes, as we left the building and walked across the street to our cars, the crowd broke and gangsters appeared among us and I heard a crack of a blow and

" I saw one of our men had been struck by a gangster and his face was bleeding. I called to the sheriff's deputies to arrest that man who had struck the blow, and he seized him, but in a moment later, I heard another blow and our second man was bleeding. He had been slugged. With the help of the sheriff's deputies, we got our men in between the cars and finally inside the auto and they drove away safely and later I walked back across the street with the deputy and with the Lieutenant who up until that time had not appeared on the scene, being still in the building. We got in the lieutenant's car and drove home."

There is submitted herewith as Exhibit No. 9, a sworn statement made before me on March 18, 1931, by Mr. Chester H. Bragg of Chicago, Illinois, relating to the raid on the Capone gambling establishment above referred to in which he assisted the deputy sheriffs on May 16, 1925. He states as follows:

"Memorandum of interview held in Room 587 Federal Building, Chicago, Illinois, on March 18, 1931, with MR. CHESTER H. BRAGG, 3101 Harlem Avenue, Berwyn, Illinois, in the presence of Special Agent Frank J. Wilson and Marie J. Donahue, Stenographer.

MR. WILSON:

Q What is your full name?

A Chester H. Bragg.

Q What is your address?

A 3101 Harlem Avenue, Berwyn, Ill.

Q What is your business?

A Real estate broker.

Q Will you kindly state the circumstances and details with reference to a raid which was conducted at a gambling establishment in Cicero, Illinois, on Kentucky Derby Day, 1925, at 4818 West 22nd Street?

A I was called up the day previous by Reverend H. C. Hoover, who asked me if I would report at 11 o'clock the following day at this Grove Avenue place where Morgan lived, #3545, for some investigation. I came there at that time and met a squad car with about three states attorney sheriffs, and we discussed plans, and landed up at 4818 - 22nd Street, Cicero, just before the noon hour, probably 11:45. Hoover and one other investigator had been there an hour in this

" gambling place, playing the games and getting the low down on their activities. When we arrived the place was put under arrest, and everybody, including our operators, were lined up against the wall (I mean Hoover and this other party). I was stationed as guard at the front entrance and told to let nobody out or in. There was a crowd congregated in the street that rapidly reached three or four-thousand people. The noon hour crowd at the Western Electric was then filling the streets, and the people from the Western Hotel (that time it was called Anton's Hotel) across the street soon learned about this, including Al Capone, who came across the front door and tried several times to get in there. I stayed there and held the door but he tried to push it open three or four times. I closed it each time. Finally he made a desperate effort to get the door open and I opened it part way, and then I discovered from his scarred face who he was. I knew from pictures and other information that I had. He said, 'Let me in, I am the owner of the place', and I greeted him, and said, 'Come on in Al, we are looking for you'. He went on upstairs where our party was dismantling and loading gambling equipment and bringing it down to the street to be loaded into trucks, and we had backed up to the front of this entrance. I think we also had a truck at the rear, thinking that we might load each way. I am not sure whether they brought much of that out the back way, or whether it all came out the front. We loaded two or three truck-loads full of wheels and all sorts of gambling equipment. When this job was finished, I went out of the front door with Morgan, a paid investigator, and the crowd milled around so, trying to get at us, and knock us down. They followed us all the way across the street and as I was trying to get into my car, I was slugged and my nose was broken. Morgan also was knocked down and they tried to kick his face in and I got him on his feet, and the two of us made a run for our car, and I got in there with blood spouting from my face and nose, all over the wind shield, wheel, and my clothes. We drove through to La Grange and convoyed these loads of gambling equipment, and they were locked in the La Grange police station for safe keeping. This evidence was used in a trial before Judge Dreher of Brookfield, and although this evidence was brought into the case, it was dismissed for lack of evidence. Capone was dressed as though he had been suddenly called from his own hotel, across the street, by noise of the raid. I am quite positive that he had no necktie and that his shirt was opened and unbuttoned at the neck.

- "Q Do you know anything with reference to an alleged conversation that he had with Mr. Hoover?
- A I only have a hearsay recollection that he first bullied and then later took a conciliatory attitude toward Hoover, in the hopes of bringing him to lay off of him in part of the district there, if he would stay out of the rest. That is hearsay. I did not hear it myself.
- Q Were any threats of any nature conveyed to you on account of your activity with reference to this raid?
- A I was told by several foreigners, at different times, who leaned into my car, and made verbal threats to me, that they would get me if I didn't stay out of those activities. My Nash car was ruined by gravel thrown in on top of the cylinders and pistons, by somebody who was evidently trying to intimidate me. I was told through political connections in the town of Cicero that if I didn't watch my step it would be just too bad.
- Q Did you write a letter to Judge Drehrer, who dismissed this case, and can you state what happened to that letter after he received it?
- A I wrote Judge Drehrer, condemning and blistering him for the disposition he made of this case, and evidently this letter was turned over to the Capone interests with the statement that if he was going to do their dirty work, they would have to put a muzzle on this fellow, Bragg.
- Q Did you ever at any other time than the raid, have a conversation with Mr. Alphonse Capone?
- A No.
- Q Have you at any other times seen Mr. Alphonse Capone in any gambling establishments or places of that nature?
- A I have seen him in the Cicero Court in connection with that Harlem Tavern Raid before Judge Sandusky, in the town hall of Cicero, together with his brother, Ralph, (Bottles) Capone.
- Q When you saw him in the court room at that time, was he there as a spectator, or in what capacity was he there?
- A Both of them were all over the place with an air of familiarity, and proprietorship, as though they felt more at home there than the different citizens of the community. They pointed me out to their Cicilian friends around the hall there, in unmistakable terms, with the idea of intimidating or scaring me out.

SI-7085-F

"Q Was that particular court hearing with reference to an action against a road house known as The Harlem Tavern, at Harlem, and 43rd Street, Stickney?

A Yes.

Q Was that place later padlocked as a nuisance by the States Attorney's Office?

A Yes.

Q Was the name, Mr. Louis Lipschultz, mentioned as one of the owners of that property?

A I personally got the name of that owner, but I do not even recall what his name is. I got the owner's name in the record of this case, and his lease was before the court as owner of the property.

Q During the raid that occurred at 4818 West 22nd Street, was it evident that Mr. Al Capone was the owner of the place by any other circumstance or action, other than his statement to you that he was the owner of the place?

A His orders to the employees and the people in the place, and their recognition of his authority was evidence to anybody that he was.

Q Did you see or hear him issue orders to employees in that place at the time?

A Understand that we had the place under arrest, and that all these fellows were lined up so that he couldn't give orders in the sense of telling them to do something that we wouldn't permit them to do, but I recall very distinctly that his authority was evidenced there by his conversation and the conversation of workers and people who were running the gambling joint.

Q Then the actions of Mr. Capone and the actions of employees in the gambling establishment which you observed during the raid, made it quite evident that they regarded Mr. Capone as the proprietor of the place?

A Absolutely."

There is transmitted herewith as Exhibit No. 10, a transcript of the testimony of David H. Morgan relating to the raid on the gambling establishment known as the Hawthorn Smoke Shop on May 16, 1925. He

SI-7085-F

stated in part that he was a resident of Western Springs, a machinist, and that he knew the defendant in the case, Al Capone. He identified the defendant, stating he had a conversation with him in May of 1925 at the gambling establishment located on the second floor of 4818 W 22nd Street, Cicero, that present were Lieut. Davidson, Mr. Bragg, Reverend Hoover and four or five deputy sheriffs assisting Lieut. Davidson, that Mr. Capone tried to enter and was pushing his way through the door when Mr. Bragg said to Capone, "What do you think this is, a party" and Capone replied, "It ought to be my party. I own the place". Mr. Morgan then escorted Capone upstairs to Lieut. Davidson, in charge of the raid, saying "Here is the man who says he owns the place"; that Mr. Hoover was then with Lieut. Davidson and that Capone said, "Why are you fellows always picking on me. This is the last raid you will ever make". Mr. Morgan said that the second floor of the premises was a regularly laid out gambling place with roulette wheels, a black Jack game, race charts, pool tables with covers used for craps and dice games and that money was lying on the tables at the time of the raid. Mr. Morgan stated that during the raid he was struck on the nose and had to be attended by a doctor at the Berwyn Medical Unit. He further stated that the man claiming to be the owner who entered the gambling place at 4818 W. 22nd Street had a long scar on the left side of his face.

At the raid above referred to Alphonse Capone appeared and threatened Reverend Hoover and Mr. Morgan and warned them that it would be "The last raid you will ever pull". It was their last raid. A few nights after the raid Mr. Morgan arrived home at midnight and as he was entering his garage four foreigners overpowered him and attempted to take him for "a ride". He broke away from them but in the fight he was shot and left to die. However, he was found by neighbors who heard the shots and who saw an auto speed away. They promptly took Morgan to a hospital where after a month he recovered but he then decided it was not a healthy diversion to assist the deputy sheriffs in raiding joints operated by Capone and no further raids were made by him or by the Reverend Hoover. On account of the attempt to take the life of Morgan who was an important witness, neither he, the Reverend Hoover nor Mr. Bragg appeared to testify against Mr. Capone when the gambling violation case resulting from the raid on 4818 W. 42nd Street came up for trial and the Citizens Association with which they were connected made no further raids or efforts to interfere with Mr. Capone's illegal activities in Cicero and vicinity. The place at #4818 W. 42nd Street reopened a half hour after that raid and county and city authorities made no efforts to interfere with its operation until the murder of Assistant States Attorney McSwiggen. The members of the gang who attempted to kill Morgan were not located by the police.

SI-7085-F

As soon as the excitement over the murder of Assistant States Attorney McSwiggen on April 26, 1926, died down, Capone resumed his gambling activities in Cicero. The Hawthorn Smoke Shop was reopened and Fred Ries was employed as cashier. Practically all of the business relating to the profits of that establishment was conducted by Mr. Ries with Jack Guzik, the financial representative of Capone. There are submitted herewith as Exhibit No. 11, a sworn statement made before me by Ries dated September 18, 1930, Exhibit No. 12, a sworn statement of Ries dated October 20, 1930, and Exhibit No. 13, a copy of the testimony of Ries at the trial.

Mr. Ries was a hostile witness and considerable difficulty was experienced in locating him as for a very long time he was kept under cover in Florida and other points by Louis Lipschultz, Jack Guzik and other agents of the Capone organization because they were informed that this Unit was looking for him as a witness in this case. They were arranging to furnish him with funds and to send him to California when on August 30, 1930, Special Agent Tessem and I found him at St. Louis, Missouri, as he was about to leave for Los Angeles, California. An air mail special delivery letter from Cicero, Illinois, was delivered to Ries by a special delivery messenger just before we entered the room. The letter was from Louis Lipschultz, brother-in-law of Jack Guzik and contained instructions for Ries to proceed at once to California. Lipschultz had been furnishing large sums of money to Ries to keep him away from Chicago in order that he might not be located and used as a government witness against the Capone organization. Mr. Ries plainly showed and also said that he was filled with fear of death from the Capone organization in the event he testified truthfully to us. When we questioned him regarding his employment in the gambling establishments in Cicero he cleverly denied any knowledge of the facts which could be used by the government as evidence against Al Capone, Jack Guzik or other principals in that organization. By comparison of his penmanship with indorsements on canceled cashier's checks amounting to \$224,704.00 purchased under the name of J. C. Dunbar at the Pinkert State Bank in Cicero during the years 1927 and 1928, we established that Mr. Ries had used the name of Dunbar and had purchased all of these checks. In spite of his alleged ignorance regarding the cashier's checks or the identity of his employers or other facts of value it was decided that he should be held as a material witness. No Federal Judge was available in St. Louis, Missouri, and he was taken to East St. Louis, Illinois, before Federal Judge Wham who fixed his witness bond at \$15,000.00. He was unable to furnish bail and was held in the county jail at Danville, Illinois. No publicity was given to his detention as a witness as we did not wish the Capone organization to come to his rescue and bail him out. After he had been detained in jail for a

few days, Tessem and I visited him and persuaded him to identify the cashier's checks and to explain his deposit of the funds represented by them. He stated that they represented part of the net profits of the gambling establishment in Cicero during his employment as cashier; that the business was operated by the Capone syndicate; that the principals in the syndicate were Al Capone, Jack Guzik, Frank Nitto and Ralph Capone; that he turned the net profits from the business over to Jack Guzik and took all orders relating to the business from Jack Guzik. It was believed that the witness might become more unfriendly and hostile if held in jail for a long period awaiting trial of the tax cases against the principals in the syndicate so we arranged with Federal Judge Wham to have him released by signing his own bond. As he believed that his life was in jeopardy because of furnishing evidence to us against his former employers in the Capone syndicate, it was decided to protect him in order that he might be available as a witness for the trial. Through the cooperation of the Chicago Association of Commerce his expenses on a trip to South America were paid and we were able to keep his whereabouts secret. Although he continued to be a very reluctant witness, his testimony was of great value in the income tax cases which resulted in the conviction of Al Capone, Jack Guzik and Frank Nitto. His sworn statement made to me on October 20, 1930, was as follows:

"FRED RIES, first being duly sworn on oath, deposes and says:

"I was employed in certain gambling houses located in Cicero, Illinois, known as The Ship, The Subway, The Radio, Lauderbach's on 12th Street and 48th Court, a garage on 25th or 26th Street and 50th Avenue, and a place upstairs over The Subway, from the latter part of 1924 or early in 1925 to the latter part of 1928. These places were controlled or run by a syndicate sometimes referred to as the Cicero syndicate. I was the cashier in these gambling houses, during the afternoon I took bets which the customers placed on the outcome of the horse races, and after the race track business was closed for the day, all the cash remaining after the race track bets had been paid off was placed in the office safe by me. The business of these gambling houses was not confined to race track betting as various games of chance, such as craps, roulette, etc., were run by the house from which the business derived a profit.

"The cash receipts from the gambling games other than the race track bets were also placed in the safe after the business was closed for the day. I left the gambling houses each day after the race track business was finished and the cash receipts from the gambling games was taken care of by other employees

"and put in the safe by them. It was part of my duty as cashier to check all the money in the safe and to arrange to have sufficient cash on hand for each day's business in the shape of bills of different denominations and coins of different denominations so that change could be readily made. I would take sums of money to the bank and have it changed into the denominations that I considered necessary to conduct the race track betting and the games of chance. Some of the other employees of the gambling house in which I was employed in 1927 and 1928 were Pete Penovich, who, part of the time, was referred to as manager; Frank Milano, who was pay-off cashier for the race track bets; a man referred to as 'Post Time', also as Dominick Volpe, whom I had identified as No. 4 on Pictures 1266 and 1266-A; Frank Ryan, who succeeded Penovich as manager and whom I have identified as No. 3 on Pictures 1266 and 1266-A; and the man marked No. 1. on Pictures 1267 and 1267-A is Frank Milano. Frank Ryan had charge of the gambling business after Pete Penovich was no longer connected with the business. The other persons in Pictures 1266 and 1266-A are as follows:

- #1. Mike King
- #2. George Durkin
- #4. Dominick Volpe, known as 'Post Time'
- #5. Charles McCullough
- #6. George Bear
- #7. George King

"These men listed above were employees in gambling houses where I worked. The other persons in Pictures 1267 and 1267-A are as follows:

- #1. Frank Milano
- #2. Frank Milano's brother
- #3. Al Gordon, known as The Greek
- #4. Fred Orlando
- #5. Charles Sklodowski
- #6. Mibs

"These men listed above were employees in the gambling houses where I worked as cashier.

"Marty King, No. 1 in Picture 1289 was employed as pay-off cashier on the games. Frank Milano kept the payroll for the men who were employed on the race track part of the business and he paid them each day. One of the duties which I performed was to pay all bills incurred through the conduct of the business, such as bills for electric light, 'phone, gas, petty expenses, the General News Bureau for wire service, etc. I paid rent to Ed Freeman, who owned the building The Ship was in, and two Greek men (Giancakes and Tempoulous), who owned the building where The Subway was located. We were out of Lauderbachs for a long time, then went back and had to pay \$300.00 rent before we could start the business again. When we left the basement (The Subway) we owed the landlords (two Greeks) rent for about six months. I bought tickets, a series of numbers, for use in the business from Bentley Murray Company most of the time but on a few occasions I bought the tickets from the Simplex Ticket Company. These tickets contained a number and when a customer made a bet a record of the bet was made on the sheet retained by the house and the number was placed in that record. The ticket bearing that number was given to the customer for his identification in the event that the horse on which he had bet won the race, and he was entitled to collect a winning bet. The telegraph operators employed to receive the race information and results over the wire from the General News Bureau were Jimmie Stanton and Joe Funk. All employees in the establishments were paid in cash each day. Cashier's checks were not used by me in paying off the winners of the bets. I do not remember of any time, after Jimmie Mundi discontinued in Cicero that Ralph Capone, Jack Guzik, Frank Nitto or Al Capone made any bets on the horses. On frequent occasions Ralph Capone and Jack Guzik would ask me how the business was getting along and I would tell them whether it was good, bad or fair. I do not know who supplied the money which was used by me as the original 'bank roll' or for the operation of the business.

"When I first went to work in Cicero, about the latter part of 1924 or early in 1925, I was employed by Jimmie Mundi, who was operating the Gambling house known as The Ship. I acted as cashier and took care of all the money. While working for Mundi, I had a bank account in my own name in the Pinkert State Bank and also a safe deposit box in the Pinkert State Bank, and they were used by me to deposit the funds from the gambling business. This bank account and the safe deposit box were not used by me for my personal funds and they do not represent or reflect any transactions in which I was personally financially

"interested except that I was employed by Mundi and the convenient way to handle the money was by a bank account and a safety deposit box. While I was working for Mundi in The Ship, about the early part of 1927, he, Jimmie, told me that Al Brown had declared himself in on the joint known as The Ship, that Al Brown and his bunch were taking over the operation of the gambling business. Very shortly after Al Brown and his gang had declared themselves in on The Ship, Jimmie left for California. The place we called The Ship was formerly known as the Hawthorn Smoke Shop. Just previous to Mundi's departure for California I turned over to Mundi the cash which I had in the safe deposit box in the Pinkert Bank. It was about \$4,500.00. The funds in that box represented money which had been used in the operation of the gambling business at The Ship and it belonged to the business. It was necessary from time to time to move the gambling business from place to place in order that we might not be disturbed in the operation of the business and just before Jimmie's departure we had to move to the place known as The Subway. About the time Al Brown declared himself in on the gambling business and a short time after Mundi left for California, Ralph Brown, whom I later knew to be Ralph Capone, appeared, and Ralph announced to the employees that Pete Penovich was to be the new manager and would have charge of the business in the future. Penovich then declared that all the persons who had been employed in the gambling house under Mundi were out or discharged, and informed them to wait around until he called the names of the persons who would be reemployed by him for the new syndicate which was taking over the business. Penovich called out my name and I was reemployed by the new owners. Under the new syndicate my duties were the same as they had been when I was employed by Mundi. Many of the persons who had been working for Mundi were reemployed but Mundi's chauffeur, his brother-in-law, and some of his friends or men who had been with Mundi for a long time were not reemployed. A day or two after the new syndicate took over the gambling business Jack Guzik appeared at the place where we were operating and instructed me to turn over the surplus funds earned in the business to Bobbie Barton whenever he sent Bobbie to get the money and he said that when Bobbie telephoned to me informing me that he (Bobbie) was coming to the gambling house for the surplus funds that I should turn the money over to Bobbie. I decided that instead of turning the surplus cash over to Bobbie that it would be better for me to purchase cashier's checks at the Pinkert Bank with the surplus earnings of the place and turn over the cashier's checks to Bobbie which accounts for the large number

"of cashier's checks which I handed to Bobbie. I bought the cashier's checks at the Pinkert Bank and when Bobbie came to get the surplus money for the syndicate, I gave him cashier's checks. These cashier's checks were purchased by me under assumed names and they were made payable to J. C. Dunbar, A. C. Dunbar and J. C. Chick. On some occasions I turned over the cashier's checks to Pete Penovich but most of the time I handed them to Bobbie. I understood that the persons in the syndicate which took over the business from Jimmie Mundi were Jack Guzik, Al Brown, who is also known as Al Capone, Ralph Brown, who is also known as Ralph Capone, and Frank Nitto. After the gambling business was taken over by this syndicate the members did not come to the gambling houses very often while I was on duty. I left the place each day shortly after the horse races were over and was not on duty in the evenings. After the time that Jack Guzik instructed me to turn over the profits to Bobbie I do not remember seeing Guzik out there any more than about two times. I saw Al Brown at the gambling houses where I was employed about two times after the syndicate took over the business, Frank Nitto about two times, and Ralph Brown was around once or twice a week. I later learned that Al Brown is known as Al Capone and that Ralph Brown is Ralph Capone.

"The part of the gambling house where I was on duty during the races was not near the office and I had no opportunity to observe all the persons who entered the office. On the occasions when Al Brown came to the gambling houses operated by the syndicate, he was usually accompanied by Mops Volpe. Al Capone's younger brother, known as Bottles, was employed in the gambling houses as Floor Man and I think was paid \$25.00 per day while business was good. On some occasions we would have from 300 to 500 persons in the gambling houses making bets, etc., and we would have from 20 to 40 persons employed. When the crowd was too large to be accommodated in the Subway we took care of the overflow by conducting business in The Radio but this was only necessary on a few occasions for one or two days a week. We conducted business in The Ship, under the ownership of the syndicate, during part of 1927, but the syndicate did not operate there after the day of the Dempsey-Tunney Fight which I think was in September of 1927. The syndicate also conducted business at Lauderbach's, 12th Street and 48th Court Cicero; a garage on 25th or 26th Street, at the corner of 50th Avenue, Cicero. These places were not operated simultaneously except when we operated The Radio to take care of the overflow. Pete Penovich continued as manager of these places for the syndicate until Frank Ryan succeeded him. After Ryan took the position as manager I did not have charge of the money but continued to work there taking bets on the horse races.

While acting as cashier, I kept a daily record of the business conducted at these gambling houses and each night Pete Penovich would check this record except on a few occasions when he would ask me how it checked. Each day I would furnish Frank Milano, pay-off cashier, for the horse races, with funds for a bank roll and at the end of the day I would check the amount he had on hand in order to arrive at the profits resulting on the losses resulting from the horse race business for the day. Each day I would furnish the pay-off cashier for the games with a bank roll and the next morning I would check up the amount on hand to determine the profit or loss from the games. By the games I mean roulette, twenty-one, craps, black jack, The Cage, etc. While I was employed as cashier in the gambling houses run by the syndicate and referred to by me in this affidavit I purchased Cashier's checks at the Pinkert Bank with the profits of the business and I turned the cashier's check over to Bobbie, the collector for or representative of the syndicate, and on some few occasions I handed the cashier's checks to Pete Penovich. On some occasions I cashed the cashier's checks and used the money in the business. When the syndicate took over the business from Jimmie Mundi they did not furnish funds for a bank roll to operate the business as I used the bank roll on hand when Mundi was declared out by the syndicate. When I discontinued as cashier I turned over the money I had on hand to Post Time Volpe who is a brother of Mops Volpe. After Frank Ryan took charge I did not act as cashier and Post Time took charge of the money. I was employed by the syndicate in 1927 and 1928 and after Mundi was out I had no other employment during those years except by the syndicate. On frequent occasions Ralph Capone and Jack Guzik would ask me how the business was getting along and I would report to them that it was good, bad or fair. I had bank accounts in the Pinkert State Bank under assumed names as follows: A. C. Marble, A. S. Durnell, J. C. Dunbar, and I.C. Dunbar. These accounts were used by me for the business of the gambling houses where I was employed and they do not represent any of my personal business.

"I have been shown 44 cashier's checks issued by the Pinkert State Bank of Cicero and made payable to J. C. Dunbar, A.C.Dunbar, I. C. Dunbar and J. C. Chick. These checks represent the profits from the gambling houses operated by the syndicate during the period I was employed as cashier by the syndicate. All of these cashier's checks were purchased with surplus cash which I had accumulated from the operation of the business and represented the profits from the various gambling houses where I was employed. I turned these checks over to the Collector, Bobbie Barton, who represented the owners of the syndicate and I do not know what disposition he made of them. These checks represent the profits of the gambling houses and do not represent any personal profits of myself. My purpose in handing the check to Bobbie was because I knew he represented the persons who owned the gambling houses where I was employed as cashier. The cashier's checks referred to in this affidavit were issued by the Pinkert State Bank and I am informed that their records indicated that they were purchased by J. C. Dunbar. J. C. Dunbar was an assumed name used by me at the Pinkert Bank to handle the business

"of the gambling houses and Mr. Albert C. Rhan, Paying Teller of that bank, knew that I was using that assumed name. I was ordered to make Mr. Rahn a present of about \$15.00 per week and when I went to the bank to purchase cashier's checks or to get change for the bank roll he took care of me promptly. The cashier's checks referred to above have this day been inspected by me and they bear the following numbers: 110740-109313-109314-109354-109357-109450-109484-109577-109799-109900-109918-109995-110064-110147-110180-110219-110309-110580-110788-110890-110954-111006-111029-111115-111202-111237-111362-111419-111525-111693-111758-112037-113454-113488-113628-122383-122385-122484-122545-122547-123077-123900.

"This is a voluntary statement which I have carefully read. No promises were made to me for the purpose of securing this statement and no force or duress was used by the Government agents to whom I made this statement. This is a statement consisting of ten pages and I have initialed each page. This statement is made in response to questions asked by Special Agents of the Internal Revenue Bureau during the course of an official investigation."

There is submitted herewith, marked Exhibit No. 14, a schedule of cashier's checks amounting to \$202,000.00 purchased by Ries under the name of J. C. Dunbar, representing a part of the net profits of the gambling business of the Capone syndicate in Cicero while he was employed as cashier. There is submitted herewith as Exhibit No. 15, one of the cashier's checks for \$2,500.00 purchased by Ries under the name of Dunbar and which bears the indorsement of Alphonse Capone. There is submitted herewith as Exhibit No. 16, a sworn statement dated May 30, 1931, made by Mr. J. K. Brower of Palm Beach, Florida, relating to payments made to him by Al Capone for landscape work performed on the Capone estate, Miami Beach, Florida, at which time Capone stated in explaining the use of Jack Guzik's checks to make the payments, that Mr. Guzik was his financial secretary. Mr. Brower further stated that in 1928 he was in charge of the Landscape Department of the Exotic Gardens of Miami, Miami, Florida, that he had charge of the work done on the Capone estate, that he received three payments from Al Capone, the first on June 19, 1928 being a check for \$500.00 signed by Jack Guzik. The second payment on June 28th amounted to \$1,000.00 being checks for \$500.00, \$200.00 and \$300.00 signed by Jack Guzik and that the third payment of \$600.00 was made to him on July 1, 1928, that all the payments were personally made to him by Alphonse Capone, that when the payments were made Mr. Capone had a large number of checks in his possession for various amounts drawn to cash, signed by Jack Guzik, and that in explaining the use of the Guzik checks, Capone told him that Mr. Guzik had charge of his finances and acted as his financial secretary. Mr. Brower also identified the book records of the Exotic Gardens relating to the above payments.

There is submitted herewith as Exhibit No. 17, a stenographic report of an interview with the taxpayer, Al Capone, and his attorney, Mr. Lawrence P. Mattingly of Washington, D. C., held in the office of the Internal Revenue Agent in Charge at Chicago, Illinois. It will be noted that in this interview Mr. Capone authorized and delegated Mr. Mattingly as his agent to furnish the Internal Revenue Bureau with evidence relating to his income. At that time Mr. Capone and his attorney were warned that any statements or information furnished by them would be used against Capone in a criminal prosecution if in the judgment of the government, it was considered necessary or advisable. In response to pertinent questions relating to his income, the taxpayer stated, "I will let my lawyer answer that for me". There is submitted herewith, as Exhibit No. 18, a power of attorney signed by Alphonse Capone authorizing Mr. Mattingly to represent him before the Internal Revenue Bureau. The original of this power of attorney was filed with the Commissioner of Internal Revenue in Washington, D. C., and a duplicate of it was filed in Chicago with the Revenue Agent in Charge.

Between May 19, 1930, and September 20, 1930, several conferences were held at our office in Chicago by Mr. Mattingly, Revenue Agent Hodgins and me. At each conference Mr. Mattingly expressed the desire that the Capone income tax case be closed promptly and he agreed to furnish me with all the facts he could secure from the taxpayer regarding his taxable income for the years under investigation and also to furnish information regarding his activities during those years in order that we might get all the facts so as to expedite the closing of this case. We knew that Mr. Mattingly and the taxpayer had been previously warned and understood that any facts furnished by them would be used if necessary or advisable by the government in a criminal prosecution against the taxpayer and I therefore encouraged Mr. Mattingly to submit to us all the facts he could secure from the taxpayer. As a result of these conferences Mr. Mattingly submitted a letter to us dated September 20, 1930. This letter contained admissions of large taxable income for the four years 1925 to 1928, inclusive, and it was introduced as evidence in the trial against the taxpayer. This letter was considered of great importance by the attorneys presenting the case for the government and the defense attorneys made unusually strenuous efforts to prevent its introduction as evidence. A copy of the letter is submitted herewith as Exhibit No. 19. It will be noted that the following admissions were made: that the taxpayer was a member of an organization or syndicate from 1925 to 1929; that he was acting as a principal in this organization with three associates and that the profits were divided as follows - One third to a group of regular employees and one sixth each to the taxpayer and three associates. Government witnesses established

that the three other leaders of the Capone syndicate with whom the taxpayer was constantly associated during these years were Jack Guzik, Frank Nitto and Ralph Capone. The taxpayer stated to J. K. Brower that Jack Guzik was acting as financial secretary and taking care of his finances (See Exhibit No. 16). During this investigation it became necessary to secure evidence against the other principals in the Capone organization and Jack Guzik was convicted of tax evasion and sentenced to five years at Leavenworth Penitentiary. Guzik was next in command to Al Capone in the organization and he handled the syndicate's activities in prostitution and gambling. He was also regarded as the political fixer for the organization. Ralph Capone is an older brother of the taxpayer and was closely associated with him in all his activities. He has been convicted of evasion of income taxes and sentenced to three years in the Federal Penitentiary at Leavenworth, Kansas. He is now serving his sentence and was transferred to the Federal Penitentiary at McNeil's Island. Ralph Capone handled the activities of the syndicate in operating breweries and the sale of beer. Frank Nitto was the other principal in the Capone syndicate and he handled the activities of the organization in whisky and alcohol. Nitto pleaded guilty to tax evasion and served a sentence of eighteen months in the Federal Penitentiary at Leavenworth. There is submitted herewith as Exhibit No. 20, a rough draft of a letter written by Attorney L. P. Mattingly in which he fixes the income of Al Capone at \$2,000.00 per month for the year 1929 and this letter has been used as the basis for the taxable income of the taxpayer for that year. On account of the widespread publicity since 1928 to the effect that the government was checking the income of Alphonse Capone and the members of his organization, it is believed that they did not place their funds in banks or invest them in tangible assets or leave other leads relating to their financial transactions as the newspapers warned them that careful investigation would be made in financial institutions to establish their income. From that time on their income was carefully hidden from the government and the above letter together with the letter of Mr. Mattingly dated September 20, 1930, are the most definite evidences of the taxpayer's income for the year 1929.

This investigation established that the taxpayer Al Capone was interested in certain houses of prostitution run by his syndicate since the early part of 1924. One of the houses of prostitution controlled by the Capone organization was the Harlem Inn at No. 4225 Harlem Avenue, Stickney, Illinois. Stickney, a western suburb, adjoins Cicero, Berwyn and the City of Chicago. Al Capone attempted to make a deal with Reverend Hoover to allow him to operate the gambling business at the Hawthorne Smoke Shop in Cicero without molestation by agreeing to withdraw his illegal activities from Stickney in the event that Hoover and the West Suburban Citizens Association would not interfere with the activities of the organization in Cicero (see statement Reverend Hoover, Exhibit No. 8). Reverend Hoover, Mr. Bragg and Mr. Morgan, as officers of the West Suburban Citizens Association, previously had forced the sheriff to action and had cooperated with him in raiding the Harlem Inn. The Capone syndicate purchased the property known as the Harlem Inn on February 29, 1924. It was bought under the name of Louis Lipschultz, a brother-in-law of Jack Guzik, and on January 7, 1925, the property was deeded by Lipschultz to Jeannette Keithly, a sister-in-law of Jack Guzik. Capone was aware of the efforts of Hoover, Bragg and Morgan to have the sheriff and the state authorities close up this place on account of its being a house of prostitution and he tried to enter into a deal with Reverend Hoover who refused to consider any such proposition. At the time of the murder of Assistant States Attorney McSwiggen, the Chicago police raided the Harlem Inn in their efforts to locate Al Capone who was accused of causing the murder of the states attorney but he was not found on the place. They did find a supply of firearms, a large amount of dynamite, whiskey and detailed records setting forth the daily income of the Harlem Inn derived from prostitutes. Photostats of the records secured during that raid are submitted herewith as Exhibits Nos. 21 and 21-A and 22 to 37, and they cover the period of eighteen days. They establish that the total income of the Harlem Inn from this source for that period amounted to \$6,398.00. On that basis the yearly income of this house of prostitution was \$129,000.00. These daily records cover the period from April 6, 1926 to April 25, 1926. On these daily sheets in column No. 1 appears the name of each prostitute connected with the Harlem Inn on that date. In column No. 2 appears the income of each prostitute for one night. In column No. 3 the entries represent 50% of the income of each prostitute taken by the establishment. In column No. 4 the entry represents 10% of the second column, which was the amount charged the prostitute by the establishment for towel service. In column No. 5 the entry represents the net income received by the prostitute; in column No. 6

the entry represents the commissions earned by the prostitute on sales of liquor to customers, and column No. 7 represents the total amount earned by the prostitute. Various other large expenses also taken from the income of the women for meals, auto transportation from a downtown hotel to their place of employment and for room rent at the hotel where the syndicate required them to live. In addition to the income from the prostitutes reflected on these exhibits, the syndicate also had considerable income at the Harlem Inn from sales of liquor and from meals served to patrons. There is submitted herewith as Exhibit 37-A, a newspaper report of a raid which the West Suburban Citizens Association forced the sheriff to make on the Harlem Inn on March 7, 1925. There is attached as Exhibit No. 37-B, a copy of the record of the Appellate Court of Illinois, case No. 30483, relating to the raids on the Harlem Inn on March 7, 1925 and subsequent dates. In this court record appears the testimony of witnesses proving that this place was an established house of prostitution. An injunction was issued by the court against the premises. There is attached as Exhibit No. 37-C, a copy of a memorandum petition of the people of the State of Illinois versus Jeannette Keithly, case No. B-118477, wherein various overt acts committed by the owners of the Harlem Inn are set forth. There is attached as Exhibit No. 37-D, a copy of a decree issued in the Circuit Court of Cook County, case B-118477, restraining Louis Lipschultz and Jeannette Keithly from further use of the Harlem Inn for such purposes and requiring that a bond of \$3,000.00 be furnished to insure that the nuisance would be abated promptly. There is attached as Exhibit No. 37-E, a copy of a sworn statement made on June 25, 1931, before Special Agent M. F. Malone by Mr. John Grigus, in which Grigus states that he is a heating contractor; that he installed the heating plant for Al Capone in Stickney; that upon completion of the work Al Capone paid him \$1,100.00; that the payment was made to him by Capone in the place known as the Harlem Inn and Grigus identified a receipted bill covering that work. The receipted bill of Mr. Grigus for the heating plant was found at the Harlem Inn at the same time the daily records were found relating to the income of the prostitutes at the Harlem Inn.

In spite of the injunction issued by the court against the Harlem Inn, the place was reopened and during our investigation we developed that it was again being used for the same purpose. We also discovered that the Capone organization was operating another house of prostitution a short way from there known as the Shadow Inn; that

SI-7085-F

the prostitutes were shifted between the Shadow Inn and the Harlem Inn as business demands required them in either place and that both of these places apparently had complete immunity and police protection furnished by the Chief of Police who was frequenting the Harlem Inn. I furnished this information to P. F. Roche, Chief Investigator for the States Attorney's office requesting that the state take action to close these houses and arranged to be present when his force raided both of these places on the night of May 30, 1931. Special Agents Tessem, Sullivan and I were present and assisted in these raids in order that we might locate some important witnesses in this tax case known to be frequenting these joints and also to secure any records relating to the business of the syndicate which might be found on the premises. There is submitted herewith as Exhibit No. 37-H, a record which we found during this raid, covering the income from prostitutes at the Harlem Inn for a period of five days. It will be noted that the income from this source was \$730.65 for that period of five days and on that basis the yearly income from this one house would amount to \$52,560.00. It will also be noted that the syndicate had this business so well organized that a printed form was used to keep an accurate account of the income. Louis Consentino, Manager of the Harlem Inn, was arrested during the raid and pleaded guilty when tried. Four women found in the place during the raid were also arrested and pleaded guilty. After that raid the states attorney's office again started action to close the Harlem Inn for operating as a house of prostitution and secured an injunction which became effective on November 1, 1931. Mr. John Blahouse, the owner of the place known as the Shadow Inn, identified Al Capone as the man who negotiated the lease and made some of the monthly payments to him. A copy of a sworn statement made by Mr. Blahouse on June 9, 1931, is attached as Exhibit No. 37-F. The fact that the Capone organization had a machine gun concealed on the premises of the Harlem Inn on May 29th, the day before the raid, was established through a telephone conversation on one of their tapped telephone lines, but it had been removed before a raid could be carried out to capture it. Telephone lines were not tapped by special agents of the Intelligence Unit during this investigation, but through cooperation from other sources we were legally furnished with information relating to and transcripts of telephone conversation over certain lines. There is attached as Exhibit No. 37-G, a memorandum prepared by Special Agent James T. Sullivan relative to houses of prostitution under the control of the Capone organization and showing the connection of Al Capone and Ralph Capone with them. At the trial of Al Capone for tax evasion it was not considered advisable to establish his connection with these houses of prostitution and in determining his tax liability we did not take into consideration any income from such sources.

There is attached as Exhibit No. 38, photostat of safe deposit box records of the Pinkert State Bank of Cicero, Illinois, covering a safe deposit box jointly rented by Alphonse Capone and Louis La Cava. Miss J. Alexander, an employee of the Pinkert State Bank identified Al Capone, the taxpayer in this case, as the same person who signed the contract for this box and who signed the various entry slips covering visits to the box from time to time. Before the Federal Grand Jury Mr. Louis La Cava testified that the daily records relating to the profits of the gambling business at Cicero were kept in this safe deposit box by Capone and himself. Testimony of Frank Pope, one of the managers of the Cicero gambling establishments, L. A. Shumway and other witnesses, established that La Cava made regular visits to the gambling establishment to inspect their record of profits, that he regularly collected the surplus and that he was regarded as the collector and representative of the owner of the business. La Cava claimed that all the collections from the business were turned over by him to Mike Merlo and Tony Lombardo. Merlo and Lombardo were murdered before La Cava testified so he knew that the government could not interview them to confirm or refute his statement.

There are submitted herewith as Exhibits Nos. 39, 40, 41 and 42 sworn statements of Frank Pope, Ben Pope, Louis La Cava and Peter Penovich, Jr., with reference to the operation of the gambling business at Cicero and the distribution of the profits from the business. Conflicting, indefinite, misleading and untruthful testimony was given by these witnesses during interviews in our office and later before the grand jury as they were members of the Capone organization each one being hostile to the government and they claimed they were afraid of reprisals from the Capone organization in the event the government used them as witnesses to convict their leader of evasion of income taxes. After a careful consideration of their statements, together with the testimony of L. A. Shumway (Exhibit No. 6 and No.6-A) and one sheet of the gambling record kept by Penovich and Shumway (Exhibit No. 43) it was found that during the year 1924 the net profits reflected in the book record (Exhibit No.5) of the gambling business in Cicero were divided as follows:

Louis Alterie, for John Torrio and Dion O'Bannion	18%
Dave Bates, for Dion O'Bannion and John Torrio	18%
Peter Penovich, Jr.	5%
Al Capone	41%

The net profits established from this business for 1924 by the gambling book record, Exhibit No. 5, and by testimony of Mr. Shumway, was \$300,250.94 and 41% of this amount or \$123,102.89 was the net income of Al Capone from that source for that year. This amount was the net income set forth in the indictment covering the year 1924. No evidence was submitted by the defense to refute this income from the gambling business but the defense did produce witnesses to testify that the taxpayer suffered great losses through bets on horse races with bookmakers at Chicago, Illinois, and Miami, Florida. These witnesses were called by Capone to his headquarters in the Lexington Hotel the night before they testified and their evidence consisted of oral testimony entirely unsupported by records of any nature. After the trial was over the court publicly charged that those witnesses were forced by Capone to give perjured testimony. This statement was made in open court by Federal Judge Wilkerson on October 27, 1931, when he sentenced Phillip D'Andrea, a bodyguard of Capone, to six months in the county jail for contempt of court committed during the Capone trial. The contempt case was developed by us during the trial from confidential information furnished on October 10, 1931 to Mr. Elmer L. Irey, Chief of the Intelligence Unit, that D'Andrea, the bodyguard who accompanied Capone to court each day, sitting at the counsel table with him, was carrying a loaded revolver into the court room in defiance of the order of the court that no one should carry fire arms into the court room. Mr. Irey conveyed this information to me during a court recess and I immediately took D'Andrea to the chambers of the Judge. Special Agents Sullivan, Malone and I found concealed on his person a loaded thirty-eight positive police Colt revolver and an extra round of ammunition. When the gun was taken from D'Andrea, I asked him why he carried it and he replied that he had authority to do so as he was a deputy municipal court bailiff of Chicago. I then took from him a bailiff's badge and appointment card. Upon investigation it was established that D'Andrea had not been employed in that capacity for several years and had no permit or justification for carrying the revolver. The matter was referred to the court. The judge held him for contempt of court remanding him to the custody of the United States Marshal without bail. He pleaded guilty and was sentenced on October 27th to six months in the Cook County Jail. In imposing the sentence the court referred to the perjured testimony of the defense witnesses in the Capone case stating as follows:

"THE COURT: The respondent here is charged with contempt of court. The specific act upon which the proceeding is based was that of coming before the court in company with the defendant in the case of United States vs. Capone with a revolver and ammunition in his pocket.

"Now, it clearly appears from the facts and circumstances before the court in this proceeding and at the trial of United States vs. Capone, that this respondent's activities were linked with those of an organized body of men whose outlaw camp is at the Lexington Hotel. Of this body the defendant Capone was chief. The respondent claims that he didn't know what this band was doing, but his understanding is that they were engaged in gambling and bootlegging.

"It is perfectly clear from a long array of conclusive circumstances that this band exercises a coercive influence over those with whom it comes in any contact which is nothing less than insurrection against the laws of the United States. The court would have been blind indeed if it had not observed the intimidation practiced on witnesses almost under the eyes of the court.

"It must be borne in mind that this respondent was in court, sitting with his concealed firearms behind the defendant, while the defendant was glaring at witnesses who were on the point of remembering something about the business in which the defendant was engaged, and which the witness could not possibly have forgotten; yet witnesses faltered and failed at the critical point.

"To this camp at the Lexington were summoned the witnesses who testified to the defendant Capone's losses at horse races. To that camp were summoned counsel for conferences. And from that camp, under what coercive influences we can only conjecture from what transpired in court, came that array of shocking perjury with which the court was affronted during the closing days of the trial. We had here the spectacle of witness after witness testifying in a way which was psychologically impossible, pretending to remember things which in the very nature of the human mind the witness could not have remembered if he had forgotten the things which he pretended to have forgotten. It was perjury on its face.

SI-7085-F

"The activities of this band were a menace to the court and its officers and to the due administration of justice. However, the part of the respondent was not the major one. The pistol was far less serious than the perjury.

"The respondent is sentenced to six months in the county jail of Cook County."

From the testimony of witnesses Shumway, Frank Pope, Ben Pope, La Cava and Penovich, Exhibits Nos. 6- 6-A, 39, 40, 41 and 42 it was found that the profits of the gambling business known as the Hawthorn Smoke Shop in Cicero, Illinois, as shown by the gambling record, Exhibit No. 5, covering the years 1925 and 1926 were divided as follows:

Frank Pope	18%
Peter Penovich, Jr.	5%
Ralph Capone	5%
Cicero Town Officials for graft protection	20%
Al Capone	52%

Based upon the statements of the taxpayer through his attorney, Exhibit No. 19, that he received one-sixth of the total income from the syndicate, his taxable income was fixed at one-sixth of all bank deposits and funds handled by the syndicate principals, Jack Guzik, Ralph Capone and Frank Nitto during the years 1925 to 1928, plus one-sixth of the bank deposits of Sam Guzik for the years 1927 and 1928. A schedule setting forth the income and a computation of the tax for the years 1925 to 1929 is attached as Exhibit No.44. Sam Guzik was a member of the syndicate and pleaded guilty to evasions of income taxes. He stated that the funds handled in his bank accounts were monies collected by him for other members of the syndicate. He is a younger brother of Jack Guzik and handled collections from slot machines and other illegal activities of the organization. Sam Guzik served a sentence of one year at the Federal Penitentiary at Leavenworth for the evasion of income taxes as a result of a case developed during this investigation.

There are submitted herewith as Exhibits 45 to 74, ledger sheets of known bank accounts of Jack Guzik and a cashier's check showing total funds handled by him as follows:

SI-7085-F

1925	\$288,743.49
1926	159,413.11
1927	647,654.43
1928	<u>331,657.92</u>

Total \$1,427,468.95

There is submitted herewith Exhibit No. 75, schedule of bank accounts and funds handled by Ralph Capone, as follows:

1925	\$447,241.23
1926	314,540.45
1927	416,912.88
1928	<u>357,836.71</u>

Total \$1,536,531.27

There are submitted herewith as Exhibits No. 76 to 84, schedules showing funds handled by Frank Nitto as follows:

1925	\$426,261.99
1926	169,674.13
1927	75,224.25
1927	<u>2,113.24</u>

\$673,273.61

There is submitted herewith as Exhibit No. 85, a schedule showing moneys handled by Sam Guzik as follows:

1927	\$ 91,437.42
1928	<u>193,726.95</u>

Total \$285,164.37

There is submitted herewith as Exhibit No. 42, a transcript of the testimony of Peter P. Penovich, Jr., Manager of the Hawthorn Smoke Shop, a witness called by the defense. Mr. Penovich identified government Exhibit No. 43, stated that it was in his handwriting; that it had been previously shown to him in the Grand Jury room and that he had been under Grand Jury subpoena for approximately sixteen months. In reply to a question of the court as to what the document identified by Penovich represented, Attorney Albert Fink stated, "That is apparently a list of the owners of this gambling house, in the handwriting of this witness, with amounts set opposite their respective names, from which it can be ascertained exactly, the percentages in which they owned the business". The court directed that Attorney Fink's answer be stricken from the record and would not permit the defense to proceed with the examination of the wit-

SI-7085-F

ness regarding what transpired in the Grand Jury proceedings. The sheet identified by Penovich contained entries showing the distribution of \$32,687.00 on December 2, 1924, as follows:

Town	\$6,537.42 (Paid)
Ralph	1,634.35
Pete	1,634.35
Frank	5,720.22
J & A	5,720.22 (Paid)
Lew	5,720.22
D	<u>5,720.22</u>

\$32,687.00

It also had the following entry: "Frank paid \$17,500.00 for Al". (This sheet was explained to me by witnesses Shumway and Frank Pope as a record of the distribution of the syndicate profits of the Hawthorn Smoke Shop on hand December 2, 1924). On cross examination Penovich testified that he did not know what the entries meant; that it was an exact copy of a slip that he received at the end of each month's business of the syndicate from Ralph Capone and which he copied into the book; that he did not pay any of the amounts to the persons indicated; that he handled the cash in the business until surplus profits accumulated; and that at the end of the month or the first of the month, he would give it to Frank Pope to be distributed; that he, (Penovich) was a partner in the business when it started in May of 1924 and was supposed to get 25% but was out to 5% by Ralph Capone; that he went into the business with Ralph Capone because he (Ralph) "could do the fixing" in Cicero with political powers, police departments or anyone that might be in a position to stop the gambling, or authorities that were in a position to arrest; such as the State's Attorney, the Mayor or the Sheriff; that he knew of these connections through conversations he had with Ralph Capone and because of the attentions shown to Ralph when he appeared in public places. Penovich had been a witness before the Federal Grand Jury and had not been used at the trial as a Government witness because it was plainly evident that he was attempting to shield Alphonse Capone. His answers to questions were misleading and false. He had been a member of the Capone organization for several years and was hostile to the Government. When an attempt was made to serve him with a Grand Jury subpoena in February of 1931, he was operating a gambling house for the organization at Hollywood, Florida. He avoided service and left the State of Florida the same day he learned that a subpoena was about to be served upon him. After several weeks he returned to Chicago for a day and we learned that he was at the home of Marie Moran, a woman with whom he lived and who ran a house of prostitution at 439 Belmont

Avenue, Chicago, Illinois. Penovich telephoned from her house to a friend, stating that the Government was trying to serve him with a subpoena to testify in the Capone case; that it was too hot for him in Chicago and that he was leaving early the next morning for Canada in order to keep under cover until the Capone tax case was disposed of. We overheard the phone conversations and served him with a subpoena that night. He was then kept under subpoena until the case was tried. In the meantime we learned that Penovich conferred with Capone at the Lexington Hotel on frequent occasions immediately after he had been questioned by Government attorneys before the Grand Jury; that he also was receiving presents from Capone and making statements to other witnesses to the effect that the Government would never get evidence to convict Capone of tax evasion. The tactics used by Penovich were used by other witnesses employed around the gambling houses in their attempts to shield the leader of their organization, and on account of their antagonistic attitude the United States Attorney decided it would be inadvisable to use Peter Penovich, Frank Pope, Ben Pope, Robert Barton or Louie La Cava as government witnesses at the trial of Capone.

There is submitted herewith as Exhibit No. 86, a schedule showing Western Union wire transfers of money amounting to \$72,320.00 sent by or for the taxpayer. These Western Union money orders were sent to the taxpayer or his agents at his winter home in Miami, Florida, by members of his organization, Sam Guzik, Rocco Fischetti and Bobby Barton. Barton was chauffeur and messenger for Jack Guzik and was the representative of the syndicate to whom Fred Ries turned over a number of cashier's checks from the Pinkert State Bank covering the profits of the Hawthorn Smoke Shop. In an interview with States Attorney Vernon Hawthorne at Miami, Florida, Al Capone stated that he was in the gambling business and receiving funds from that business by wire from Chicago. He also stated that a large part of these funds were received by him under assumed names and that the name A. Costa was used frequently by him. A copy of a stenographic report covering the interview that States Attorney Hawthorne had with Capone is attached herewith as Exhibit No. 87. The fact that Capone used the name A. Costa and that the funds so received were income sent to Capone from Chicago was further established by Mr. Parker Henderson of Miami, Florida. A sworn statement made by Mr. Henderson is attached herewith as Exhibit No. 88. Mr. Henderson stated in part that he became acquainted with Al Capone at Miami in 1928; that Capone lived at the Ponce de Leon Hotel which was owned by him; that he frequently cashed Western Union money orders for from \$1000.00 to \$5000.00 for Al Capone; that he conducted the negotiations for the purchase of a home on Palm Island at Miami Beach for Al Capone at a price of \$40,000.00; that as a favor for Al Capone he took title to the property and later transferred it to Mae Capone, wife of Al Capone; that Al Capone said Jack Guzik was his partner; that Al Capone said

he owned a gambling house in Chicago; that he met Ralph Capone and Frank Nitto at the home of Capone; that Al Capone presented him with a diamond belt buckle and that he visited Al Capone in Chicago in 1928 when the headquarters of Capone and his organization were at the Metropole Hotel. Mr. Henderson also informed me that at Al Capone's request he purchased six revolvers at a pawn shop in Miami for which Capone furnished the money; that he immediately turned them over to Al Capone never seeing them again; that he (Henderson) was later arrested and accused of the murder of Frank Yale because an investigation of the New York Police Department established that one of the revolvers had killed Yale; that the revolver found near the body of Yale bore the same serial number as one of the guns purchased by Henderson at the pawnshop for Capone; that Capone told him not to worry about the murder charge; that the Capone organization was accused of that murder as Yale was an enemy bootlegger; and that finally the case was dropped.

There is submitted herewith as Exhibit No. 89, transcript of the testimony of Ruth Gaskin of Miami, Florida. Miss Gaskin stated that she had been employed as stenographer for eight years; that she knew the defendant, Alphonse Capone, and identified him; that on February 14, 1929, she took notes at a hearing where Capone was present in the office of the County Solicitor of Dade County, Florida, and she produced the original notes taken on that occasion. Miss Gaskin stated that present were Robert Taylor, County Solicitor, Louis Goldstein, District Attorney of Kings County, Brooklyn, and Sheriff M. P. Lehman; that Capone told them he first met Parker Henderson in Miami about two years ago when Henderson was running the Ponce de Leon Hotel in that city; that he was a guest in room 804 at that hotel; that Henderson bought the home on Palm Island with \$50,000 cash given him by Capone; that Dan Seritella was his friend and visited him in Miami. In answer to the question "What business are you in?" he stated, "I am a gambler, play race horses"; that he knew Jack Guzik and Jack Guzik visited him in Miami last summer; that people called him Al Brown; that Jack Guzik had gambling business dealings with him; that he was known by and used the name A. Costa, and that he received money by Western Union wires from Chicago in regard to his gambling business.

There is submitted herewith as Exhibit No. 90, a sworn statement of Catherine Gaines, of Miami Beach, Florida, dated June 4, 1931, and Exhibit No. 90-A, a transcript of her testimony at the trial. Miss Gaines stated that she was branch manager of the Western Union Telegraph Company at 803 Fifth Avenue, Miami Beach, Florida, in 1928 and 1929; that she knew the defendant, Alphonse Capone, and identified him; that she received instruc-

tions from Capone regarding various wire transfers of money sent to him through the Western Union Telegraph Company; that she was directed by Capone to cash them when they were presented by any member of his household; that the members of the household recognized by her were the caretaker, Frankie Newton, another caretaker, Johnnie Moran, Albert Capone, John Capone and Mathew Capone, brothers of Alphonse Capone; that she knew the signatures of Alphonse Capone and she identified the following wire transferred drafts and the signature of Alphonse Capone upon them: June 22, 1928, \$2,000; July 2, 1928, \$900; July 2, 1928, \$600; December 18, 1928, \$5,300; December 29, 1928, \$2,000; December 29, 1928, \$1,000; January 11, 1929, \$5,000; January 17, 1929, \$2,000; February 13, 1929, \$2,000; February 13, 1929, \$5,000; April 14, 1929, \$500; June 10, 1928, \$2,000; July 17, 1928, \$400; July 17, 1928, \$1,600; July 2, 1928, \$900; July 2, 1928, \$600.

There is submitted herewith as Exhibit No. 91, a transcript of the testimony of Mrs. Lucille Gashell, of Miami, Florida. Mrs. Gashell stated that she was an employee of the Western Union Telegraph Company at Miami, Florida; she identified five Western Union drafts made by her in favor of the defendant and stated that the endorsements "Al Capone" and "Albert Capone" appearing upon them were in the handwriting of the defendant.

There is submitted herewith as Exhibit No. 92, transcript of the testimony of Miss Jean Rives of Chicago, Illinois. Miss Rives stated that she was bookkeeper for the Jack Niles Furniture Company of Chicago; that the company had business with Alphonse Capone; that in 1928 he came to the store to select furniture; that he bought it in the name of P. Henderson; that it was sent to 93 Palm Island, Miami Beach, Florida; that the first purchase amounted to \$7,289.15; that on placing the order he made a deposit of \$1,500.00, represented by three checks of \$500.00 each; that two days later (June 13, 1928) he paid the balance by three checks, one for \$1,500.00, one for \$2,000.00 and another one for \$2,000.00; that Jack Guzik was the maker of these checks; that they were drawn on the Equitable Trust Company of Chicago; and that in January of 1929 Al Capone bought additional furniture valued at \$1,250.00.

There is submitted herewith as Exhibit No. 93, transcript of the testimony of Mr. F. L. Wehran, of Chicago, Illinois. Mr. Wehran stated that he was employed as a salesman by Peck & Hills Furniture Company; that he sold furniture to Al Capone starting in November, 1928, valued at between three and four thousand dollars, some of which was sent to the Metropole Hotel and some to his home,

7244 Prairie Avenue, Chicago; that he paid cash for same; that he also sold him furniture which was delivered to the Lexington Hotel valued at from \$1,500 to \$2,000. He produced invoices of the firm and testified regarding the following items which were sold to Capone; desk set, \$39.00; lamp base, shade and two elephants, \$105.00; dresser and set, \$813.00; cabinet, \$358.00; 2 torchieres, sofa, chair, table and elephants, \$1,083.00; bed and dresser, \$153.00; chair and two lamps, \$251.50; easy chairs, davenport and smoker, \$1,038.00; mattress, springs etc., \$226.00; china cabinet, \$266.50; chair, \$11.00; lamp \$86.00; table pads \$20.55; mirror \$65.00; chair \$260.00; chair \$55.00; highboy \$68.00; bed \$27.00; chair \$13.50; pillow \$16.50; springs \$46.00; tick \$47.50; pair pillows \$106.50; humidor \$28.00; pillows \$12.50; settee \$105.00; rocker \$50.00; chair \$50.00; table \$26.00; chair \$21.75; table \$17.00; chair \$24.75; lamp base \$50.00; shade \$22.00; shade \$55.00; base \$46.50; foot end \$20.00; dresser etc. \$410.50.

There is submitted herewith as Exhibit No. 94, transcript of the testimony of Fred S. Avery, Manager of the Auditorium Hotel, Chicago. Mr. Avery stated that he was manager of the Metropole Hotel, 23rd and Michigan Avenue, Chicago, about 3½ years ago; that Al Capone was a permanent guest regularly occupying a corner suite on the 4th floor of about eight rooms; that he had other persons in the suite with him; that on one occasion he went to the suite to see Al Capone, requesting the payment of the room rent; that the amount due was about \$3,000 which Al paid the next day in currency from a roll of bills he had in his pocket; that Capone generally paid his bills about once a week, usually amounting to from \$1,200 to \$1,500 per week; that he engaged the banquet room of the hotel for two nights at the time of the Dempsey - Tunney prize fight in September, 1927, where he entertained friends; that the bill for the service in the banquet room was around \$3,000; that Al Capone had an office in his suite and that he saw Jack Guzik at the Metropole Hotel when Al was living there.

There is submitted herewith as Exhibit No. 95, a transcript of the testimony of Paul H. Mincer, Chicago, Illinois. Mr. Mincer stated that he was a rug salesman for Peck & Hills, 1353 South Wabash Avenue, Chicago; that in 1927 he sold rugs to Al Capone; that on November 8, 1927, a sale amounted to between \$1,400.00 and \$1,500.00; that some of the rugs were sent to 7244 Prairie Avenue, to Miami Beach, Florida, and that rugs valued at \$706.60 were sent to the Lexington Hotel; that a sale was made to Capone on November 11, 1927 of nine Chinese rugs for \$1,312.25 and that he sold him other rugs at later dates. He identified the records of Peck & Hills relating to transactions with Alphonse Capone.

There is submitted herewith as Exhibit No. 96, a transcript of the testimony of Walter Hausen of Chicago, Illinois. Mr. Hausen stated that he had been room clerk at the Lexington Hotel for about five years and previously had been room clerk at the Metropole Hotel; that on July 30, 1928, he registered Al Capone as a guest of the Lexington Hotel; that Capone came to the hotel with 15 or 20 men to secure rooms; that none of them would consent to sign the hotel register; that he then signed the register for them, giving Capone room 230 under the name of George Phillips; that Capone still lives at the Lexington Hotel; that when they registered into the hotel assumed names were used for all of the men; that he had known Al Capone when he was clerk at the Metropole Hotel; that he lived there under the name of Ross; that some of the men who moved into the Lexington Hotel on July 30, 1928, had lived at the Metropole Hotel at the same time Capone lived there and that Butsie, one of the men in the party, paid the bills. There is submitted herewith as Exhibit No. 97, a photostat of the register of the Lexington Hotel for July 30, 1928, the date upon which the organization moved from the Metropole Hotel to the Lexington Hotel.

There is submitted herewith as Exhibit No. 98, a transcript of the testimony of C. A. Roy, Miami Beach, Florida. Mr. Roy stated that he was in business as an interior decorator; that in 1929 he had business with Alphonse Capone amounting to \$1,500.00 for draperies, bed spreads and upholstery work. He produced his book records relating to the transactions and further stated that the directions relating to the work were personally issued to him by Alphonse Capone who outlined just what he wanted.

There is submitted herewith as Exhibit No. 99, a transcript of the testimony of Abraham J. Quint, Wholesale Jeweler, 5 South Wabash Avenue, Chicago, Illinois. Mr. Quint stated that he was in the wholesale jewelry business under the name of A. J. Quint & Company; that he had had transactions with Alphonse Capone in the years 1928, 1929 and 1930, during which period he sold him jewelry and silverware amounting to \$5,932.32. There are submitted herewith as Exhibit No. 99-A, photostats of bills covering transactions of Alphonse Capone with Quint & Company, which the witness identified, the total amount of the purchase being \$ 5,932.32.

There is submitted herewith as Exhibit No. 100, a sworn statement of Mr. F. A. Whitehead, of Miami, Florida, and as Exhibit No. 100-A, a transcript of his testimony at the trial. He stated that he was secretary-treasurer of the Dykes Iron Works, which firm built an iron gate for Alphonse Capone at the entrance to his estate at Palm Island, Miami Beach, Florida; that the cost of the gate was \$490; that it was paid for by a check and that the check was signed by Jack Guzik. Mr. Whitehead produced the records of the G. M.

SI-7085-F

Dykes Iron Works, Inc., relating to this transaction and there is submitted herewith as Exhibit No. 100-B, a photostat copy of deposit slip made by him on June 26, 1928, showing a check deposited on that date for \$500, signed by Jack Guzik.

There is submitted herewith as Exhibit No. 101, the transcript of the testimony of Earl A. Corbett, of Chicago, Illinois. Mr. Corbett stated that he was a salesman employed by Marshall Field & Company in the Custom Shirt Department; that on November 14, 1928, he sold Al Capone 28 ties at \$4.00 each, 28 handkerchiefs at \$3.00 and \$2.75 each, the total bill being \$213.50, and that on the same day Capone purchased other items of merchandise for \$36.50, \$48.00 and \$46.50. He produced the records of Marshall Field & Company relating to these transactions.

There is submitted herewith as Exhibit No. 102, transcript of the testimony of Miss Johanna E. Sullivan, of Chicago, Illinois. Miss Sullivan stated that she was employed as a bookkeeper at the S. & L. Motor Company of Chicago, Illinois, in 1928; that the records of the company show that in 1928 business was conducted with Al Brown of 2300 Michigan Avenue (Metropole Hotel), Chicago; that he purchased a seven passenger Lincoln Sedan on May 18, 1928 for \$5,380.75, and that a used seven passenger Lincoln was turned in on the transaction, for which he was allowed \$2,630.75.

There is submitted herewith as Exhibit No. 103, a sworn statement of John Newton Lummis, Jr., of Miami, Florida, dated September 5, 1931, and Exhibit No. 103-A, a transcript of his testimony at the trial. Mr. Lummis stated that he was in the real estate business and is at the present time tax assessor in Dade County, Florida; that he knew the defendant, Alphonse Capone; that in 1928 he was connected with the real estate company that sold a home to Capone; that he and Parker Henderson took Capone to inspect several houses at Miami Beach; that Capone purchased for \$40,000 a place on Palm Island; that \$2,000 in cash as a down payment was made by Parker Henderson; that \$8,000.00 in cash was paid at the closing of the transaction, the property being deeded at the request of Capone to Parker Henderson, and the balance of \$30,000 was secured by three notes signed by Henderson for \$10,000 each, due in one, two and three years. He identified a certified copy of the deed to the property at Palm Island, stating that he saw it in his real estate office at the time of the transaction and that it covered the property known as No. 93, Palm Island, described as lot 8, block K, of Palm Island.

There is attached as Exhibit No. 104, a sworn statement made on February 20, 1931, at Palm Beach, Florida, by W. Joe Faulkner, a roulette wheel operator. He states that he was employed in gambling establishments in Cicero in 1924 and 1925; that he was employed in the Hawthorn Smoke Shop on 22nd Street on the first day it opened and remained about six months until Dion O'Banion was killed, at which time the games of chance were closed for a short period; that later he worked upstairs over 4818 W. 22nd Street; that he was hired by Peter Penovich; that it was the general understanding of himself and other men employed in these places that they were owned and operated by Al Brown (A. Capone) Ralph Brown (R. Capone) Frank Pope and others and that he saw Al Brown in the place in the office of the establishment.

There is submitted herewith as Exhibit No. 105, a sworn statement of Guy Claire Buxton dated October 1, 1931, in which he states that in 1924 or 1925 he sold Al Capone a McFarlane DeLuxe Cabriolet auto for \$12,500; that about one year later he sold him another McFarlane special body auto for \$12,500.00 and that on each occasion he took in a used car in trade.

There is submitted herewith Exhibit No. 106, a sworn statement of Samuel J. Steinberg, wholesale jeweler, dated September 29, 1931. He states that about December of 1926 he sold to Al Capone 22 to 25 ladies beaded bags for \$22.50, or \$27.50 each; that later on Capone sent to him a design of a diamond studded belt buckle for a quotation; that they agreed upon a price of \$275.00 for thirty buckles; that they were delivered on December 24, 1927; that \$2,500.00 cash was paid on delivery and the balance was secured by George J. Liederman.

There is attached as Exhibit No. 107, a sworn statement dated September 23, 1931, of Louis Karlebach, proprietor of a meat market at Miami Beach, Florida. He states that Capone started dealing with him on about May 7, 1927; that his meat and poultry bill would run from \$20.00 to \$50.00 per day; that the total purchases exceeded \$5,000.00 in about two years; and that from time to time he cashed Western Union money orders for Capone covering funds that Capone was receiving from Chicago.

There is attached as Exhibit No. 108, a statement of J. J. Sewell dated October 1, 1931. He states he was introduced to Jack Guzik by Al Capone; that when the introduction was made Guzik said he was the founder of the syndicate; that Capone bought merchandise from the store operated by him; that Capone attempted

SI-7085-F

to make political connections in Miami; that Capone told him he had given money to local politicians and had said "show me the next Sheriff of Dade County and I will back him" and that Capone made a donation of \$1,000 to the Miami Community Chest which they refused to accept.

There are attached as Exhibit No. 109 and 109-A, statements of James D. Stanton. He testified that he was employed as telegraph operator on a private wire in gambling establishments in Cicero from 1925 to 1928 at 4818 West 22nd Street; Western Hotel; 4835 West 22nd Street; 4738 W. 22nd Street known as the Hawthorn Smoke Shop; the Subway and the Ship; that Fred Ries was cashier, Frankie Pope and Pete Penovich were managers; that Al Capone, Jack Guzik, Ralph Capone, Frank Nitto and Louie La Cava would come into the private office and he would give them information regarding the bets which were being placed over the wire from various cities throughout the country and that Mops Volpe and Charlie Fischetti usually accompanied Al Capone on his visits to the office.

There is attached as Exhibit No. 110 a sworn statement of Joseph H. Funk dated October 15, 1930. He states that he was employed as telegraph operator on a private wire in gambling establishments at Cicero from 1924 to 1928 of which Fred Ries was cashier and Peter Penovich and Frank Pope managers, known as The Ship, Hawthorn Smoke Shop and The Subway; that some of his bosses were Al Capone, Ralph Capone and Bottles Capone; that on various occasions when he was handing daily reports to Ries, he would see Al Capone in the private office and that Jack Guzik would come into the private wire office and request full information with reference to reports that he would be receiving over the telegraph wire.

There is submitted herewith as Exhibit No. 111, a sworn statement of Fred Girton dated May 29, 1931, editor of a weekly newspaper, published at Miami, Florida. Mr. Girton testified regarding the lavish mode of living by Al Capone at his Miami Beach home. He said that he had known the defendant real well since 1928, had been entertained at his home about thirty times; that he regularly had about fifteen to twenty persons at his home for meals; that he frequently had large parties for dinner averaging from forty to sixty persons; that he had a gold dinner service; that Capone told him it cost him about \$1,000.00 per week for food; that he had a chef whom he had brought from Colosimo's Restaurant in Chicago; that he had a Cunningham sixteen cylinder Cadillac and two other autos and that he with several others, has

SI-7085-F

been Capone's guests on a boat trip to Bimini; that all the expenses of the persons on that trip were paid by Capone and that Capone's bodyguard, Phillip D'Andrea, had accompanied them on that trip.

There is submitted herewith as Exhibit No. 112, the sworn statement of Russell Garnett of Miami, Florida, dated September 10, 1931, in which he states:

"I was in the real estate business in Miami and Miami Beach, Florida, in 1927 and 1928. The latter part of 1927 I was made acquainted with Mr. Alphonse Capone. I showed him several furnished houses at Miami Beach, as he desired to rent the home for the season, and he also informed me that he was seriously considering the purchase of a home. I finally showed him a furnished house at 3605 Indian Creek Drive, Miami Beach, owned by a Mrs. Sterns. The rent of the property for the season was \$2500. Mr. Capone agreed to rent this property and made me a down payment of either eight or nine-hundred dollars, all of which was in \$100 bills. I suggested that I give him a receipt but he said that he did not need one. The next day he paid me the balance of the rental for the season in \$100 dollar bills. The property was rented for a period of six months. During the time that Mr. Capone occupied the property, I visited his home upon several occasions, and I also accompanied him and other friends of his to various night clubs in and around Miami. Mr. Capone entertained at the house extensively, and had a great number of guests there. He also entertained extensively at the night clubs, and would have a large number of guests in his party, upon each occasion that he visited the night clubs. Mr. Capone always paid the entire bill for the food and entertainment, and also upon paying the bill would give the waiter a large tip. I have frequently seen him give the waiter a \$20 bill as a tip."

In order to show intent to evade by the fact that the defendant's attention had been officially called to his responsibility to file income tax returns and that he had failed to do so, the Government produced a revenue agent, Mr. E. P. Waters, and his testimony is submitted herewith as Exhibit No. 113. Mr. Waters stated that several years ago he called at the Hawthorn Smoke Shop in Cicero, Illinois and asked for Al Brown; that there was a barroom on the first floor and that gambling was then being conducted on the second floor where an employee took him to look for Al Capone (Brown being his nickname); that Capone was not located and Waters called again in a few days; that he then saw Al Capone, showing him his official credentials;

that he discussed income tax liability with Capone with no results; that he saw Capone again in 1926, discussing his income tax liability with him and also discussing a report that he (Capone) owned a string of race horses and had earned a million dollars at the race tracks, to which Capone replied the report was all "baloney" and that the horses belonged to his brother Ralph.

There is submitted herewith as Exhibit No. 114, a transcript of the testimony of Peter M. Arl of Chicago, in which he states he was employed at Marshall Field and Company in the custom shirt department; had business with Al Capone starting about 1927 and sold him custom made shirts at from \$18 to \$27 each. From the records of the company he testified that on May 18, 1927 he sold him four shirts at \$22.50; one at \$23.00; three at \$37.00 and one at \$30.00; three at \$12.00 and eighteen collars at \$2.00; 24 monograms for \$17.00; that on November 25, 1927 he bought three at \$22.00; two at \$24.00 and twenty-two collars at \$2.00; on November 25, 1927, five at \$22.00 and three at \$24.00; November 15, 1929, six at \$22.00 and twelve collars at \$2.00; April 17, 1928, four at \$21.50; two at \$21.50; four collars at \$2.50, four at \$2.00 and four monograms at \$1.00.

There is attached as Exhibit No. 115, a transcript of the testimony of J. Pankan of Chicago, in which he states he was a salesman for Marshall Field and Company; that he had transactions with Al Capone; that he sold him four union suits for \$12.00 each and that these were made of Italian glove silk, that is a knitted very fine silk similar to ladies gloves.

There is attached as Exhibit No. 116, a transcript of the testimony of M. A. Oles of Chicago, in which he states he was employed by Marshall Field and Company and had transactions with Al Capone; that he sold him three union suits of underwear in 1927 for \$12.00 each, and that at the same time he bought nine undershirts and nine shorts at \$5.00 each for which he paid cash.

There is attached as Exhibit No. 117, a transcript of the testimony of Ira Gay of Chicago, in which he states he was employed in the Custom Tailoring Department of Marshall Field and Company being present when transactions were had with Al Capone; that he first ordered six suits for himself on April 18, 1927 at \$135.00 each; that in 1927 and 1928 he ordered a total of twenty-three suits at \$135.00 each; three topcoats at \$135.00, one overcoat at \$150.00; that he paid cash for them; that his total purchases were \$2,635.00 in 1927 and \$1,080.00 in 1928; that Al bought and paid for suits for four or five other persons at \$135.00, also some overcoats.

There are transmitted herewith as Exhibits No. 118 to 124,

SI-7085-F

photostats of records of Marshall Field and Company relating to merchandise sold Al Capone as follows:

5/18/27 to 10/13/28 - 15 suits at \$135.00
10/27/28 to 4/25/28 - 13 suits at \$135.00

and photostats of records of the custom tailoring department covering suits paid for by Al Capone and made up for the following:

Daniel A. Serritella - 10 suits at \$135.00
Frank Perry 2 " " 135.00 and 1 at \$150.00
Nick Circella 2 " " 135.00
John Costo, 1 suit at \$125.00, 3 at \$135.00 and 1 at \$150
Tony Pagenta, 4 suits at \$135.00 and 2 trousers at \$35.00

It will be noted from the instructions on these records that special heavy pockets were made in these clothes. We learned that the reason of these heavy pockets was that revolvers were carried in them.

There is attached as Exhibit No. 125, a transcript of the testimony of Oscar D. DeFoe of Chicago, in which he states he was a tailor employed at Marshall Field and Company and had transactions with Al Capone in 1927; that he went to the Metropole Hotel to fit him; that the suits were \$135.00 each; that he collected \$700.00 on one occasion and \$1,000 on another occasion for the suits; that he had made more than twenty suits for him and two or three top coats, and that Al Capone had bought and paid for suits for four other persons. (These suits made for Al Capone and for his bodyguards were tailored with a special heavy pocket to carry a revolver.)

There is attached as Exhibit No. 126, a transcript of the testimony of Herbert E. Keller of Miami, Florida, in which Mr. Keller states he is an engineer and built a dock for Al Capone at Palm Island, that he received \$550 for his services; that the material was paid for direct to the lumber company; that in a conversation with Al Capone he was told by Al that his first job was tending bar at Coney Island.

There is attached as Exhibit No. 127, a sworn statement made by W. T. Harris, General Manager of the Southern Bell Telephone and Telegraph Company, Miami, Florida. He produced a contract signed by the taxpayer for telephone service at his home, 93 Palm Island and records showing his payments for services as follows:

SI-7085-F

1928	-	\$ 955.55
1929	-	3,141.50
1930	-	3,061.92
1931	-	1,226.64

There are attached as Exhibits Nos. 128 to 136, photostats of ledger sheets of Jack Niles Company of Chicago, covering furniture purchased by Al Capone amounting to \$9,897.97. Most of this furniture was shipped direct to the home of Capone on Palm Island, Miami Beach, Florida.

There are attached as Exhibits Nos. 137 to 140, photostats of records of Peck and Hills, Chicago, Illinois, covering sales of furniture to Al Capone as follows:

12/14/28	-	\$ 825.00
3/20/31	-	706.60
3/17/31	-	1,002.00
3/17/31	-	<u>1,244.00</u>

\$3,777.60

Practically all of this furniture was sent to the home of the taxpayer at Palm Island, Miami Beach, Florida.

There are submitted herewith as Exhibits Nos. 141 to 144, invoices covering purchases made by Al Capone from A. Sulka and Company on April 25, 1931, of ten pair of French model pajamas at \$50.00, one pair of French model pajamas at \$46.00 and eleven monograms at \$3.10, or a total of \$580.10. They were identified by Albert Nusbaum who was a salesman and he testified that he secured the orders from Al Capone at the Lexington Hotel. A transcript of his testimony is attached as Exhibit No. 145.

There is attached as Exhibit No. 146, a sworn statement dated September 30, 1931, made by Helen E. Anderson of Cicero, Illinois. She stated that she had been employed by the Pinkert State Bank for seven and a half years, that in 1926 she was in charge of the safe deposit vault department renting vault boxes and comparing signatures; that on April 12, 1926, Al Capone and Louie LaCava rented Box 1635 giving their address as Hawthorn Hotel, Cicero, Illinois, and that they signed the contract in her presence. She identified the contract, Exhibit No. 38, the signature card and signed entry slips bearing the signature of Al Capone made in her presence. She then compared the endorsement "Al Capone" on cashier's check 111237 (Exhibit No. 15) and stated that the signatures were identical.

There is attached as Exhibit No. 147, a sworn statement made

SI-7085-F

by Don D. Cunningham on September 29, 1931, in which he states he was employed by the Equitable Trust Company for six years; that he was manager of the safe deposit vault and that on several occasions he admitted Al Capone to the safe deposit vault department. He identified a contract signed by A. Capone renting Box 536 and also an entrance ticket dated May 7, 1929.

There is attached as Exhibit No. 148, testimony of George F. Geinzer of Chicago, Illinois, who states he was a manager of the Hotel Metropole during the period Al Capone was a guest there and that on August 4, 1927, he collected from Al Capone \$4,169.76 covering room rent for Al and members of the organization. He identified records of the hotel relating to transactions with Capone.

There is submitted herewith as Exhibits Nos. 149 to 153, a schedule prepared by Revenue Agent Hodgins from the records of the Metropole Hotel, Chicago, Illinois, showing payments made by Al Capone. It will be noted that in 1927 he paid the sum of \$18,642.96, and from February 8, 1928 to July 25, 1928 the sum of \$7,654.42. This hotel was the headquarters of the Capone organization before they moved to the Lexington Hotel.

There is submitted herewith as Exhibit No. 154, a transcript prepared by Revenue Agent W. C. Hodgins from the records of the Lexington Hotel showing payments made by Al Capone as follows:

August 8, 1928 to Dec. 18, 1928	\$4,136.48
Jan. 8, 1929 to Dec. 10, 1929	7,739.79
Jan. 6, 1930 to Oct. 3, 1930	9,285.67

There are also submitted Exhibits Nos. 155 to 162 showing long distance telephone messages charged to his room in the Lexington Hotel during that period. It will be noted that he was frequently in communication with persons in most of the large cities in the country. Exhibits Nos. 163 to 164, a schedule showing amounts paid to the Lexington Hotel by the Capone organization are also attached as follows:

Aug. 9, 1928 to Dec. 18, 1928	\$11,710.35
Jan. 8, 1929 to Dec. 10, 1929	13,886.70
Jan. 6, 1930 to Sept. 10, 1930	13,342.65

Frank Nitto was indicted on March 15, 1930 for evasion of taxes covering the years 1926 to 1928. Bail was fixed at \$50,000.00. The warrant for his arrest was delivered to the U. S. Marshal at Chicago on March 15, 1930 for service and the defendant could not be located.

After three months the press ridiculed the government for its inability to arrest this prominent member of the Capone organization. The Chicago Association of Commerce then offered a reward of \$1,000.00 for information leading to his arrest but without results. United States Attorney Johnson requested our Unit to endeavor to locate Nitto and in October of 1930 I was directed by you to make an effort to apprehend Nitto. At my suggestion Special Agent Malone was ordered to proceed to Chicago to cooperate with me on that assignment. We found that Nitto's wife was driving a Ford auto with a Wisconsin license taken from a stolen auto. The auto with the Wisconsin license was located by Special Agent Malone and trailed to a large apartment building in Berwyn, Illinois. A room was rented across from the apartment and after several days of continuous surveillance by Special Agents Malone and Tessem, the apartment occupied by Nitto was located and it was found that he was home. We immediately called upon Chief Investigator P. F. Roche of the States Attorney's office for some deputies to assist in surrounding the apartment and Nitto was arrested on November 1, 1930. Nitto pleaded guilty in December 1930 and was sentenced to one year and six months in Leavenworth Penitentiary.

In February of 1931 Al Capone was tried in the District Court at Chicago, Illinois, on a charge of contempt of court, arising out of his failure to appear at Chicago, Illinois before the grand jury in February, 1929 in response to a federal grand jury subpoena served upon him at Miami, Florida. At the request of United States Attorney Johnson and Assistant United States Attorney Jacob Grossman, special agents of this Unit engaged on this case at Chicago and Miami cooperated with the Department of Justice in assisting in locating witnesses and securing evidence to establish the contempt. In January of 1931, United States Attorney Johnson and Special Agent in Charge Madden went to Miami and interviewed several witnesses with reference to this case. Special Agent Clarke of our Miami office cooperated by interviewing proposed witnesses at Miami, securing documentary evidence, and he also was a government witness when the case was prosecuted at Chicago. Capone was found guilty in the District Court and appealed to the Circuit Court of Appeals but upon his conviction in the income tax case the appeal was withdrawn.

The investigation established that the winter home of the taxpayer at Miami Beach, Dade County, Florida, was purchased by him in the name of his agent, Parker A. Henderson of Miami, in April 1928, and that it was deeded by Henderson to Mae Capone, wife of the taxpayer, on July 19, 1928. On October 10, 1931, the writer recommended (Exhibit No.165) that a jeopardy assessment be immediately made against the taxpayer and that liens be filed by the Collector of Internal Revenue in Florida in order to protect the interest of

the government, as we found that the taxpayer was attempting to dispose of his home, the household furniture, two yachts and a McFarlane automobile for \$150,000.00. The assessment was made and due notice served on the taxpayer at Chicago on October 24, 1931. The assessment against Alphonse and Mae Capone for four years, 1926 to 1929, inclusive, was \$137,328.16. On that date liens were filed by the Collector at the county seat of Dade County, Florida, and the caretaker on the premises was warned not to remove or allow other persons to remove the personal property in violation of the lien. There is attached as Exhibit 165, a copy of a telegram sent by Capone on July 6, 1931 to the White Realty Company, Miami Beach, Florida, in which he offered his home for \$150,000.00 cash, including the furniture, two yachts and a McFarlane automobile. There is attached as Exhibit No. 166-A a certificate of appraisal made by two members of the Miami Real Estate Association appraising his home at \$65,000.00. As this investigation established that the funds for the purchase of the house and for the improvement of the estate were entirely furnished by the taxpayer, Al Capone, it is believed that the government lien covering the property is valid and it is recommended that unless the tax assessed is paid within a reasonable time that appropriate steps be taken to foreclose the lien and cause the sale of this property, the proceeds to be applied to the unpaid taxes.

SI-7085-F

Unusual difficulties were encountered during the entire course of this investigation because all important witnesses were either hostile to the government and ready to give perjured testimony in order to protect the leaders of their organization or they were so filled with fear of reprisals of the Capone organization in the event they testified truthfully regarding their activities that they evaded, lied, left town and did all in their power to prevent the government using them as witnesses. Many of the witnesses were foreigners and known only by their nicknames having no permanent homes or places of business. As soon as it became known that we were looking for certain witnesses or the organization suspected that the government might need certain of their employees as witnesses, they promptly went under cover or were sent out of town and sometimes out of the country. In order to locate them and serve them with subpoenas it was necessary to pick them up on the streets near the Capone headquarters at the Lexington Hotel, at racetracks, at raids on gambling establishments and houses of prostitution, at Cicero hotels and at night clubs, also through various subterfuges. Considerable of the work in locating witnesses was performed at night in and around the hang-outs of the Capone organization by Special Agents Tessem, Malone, Converse and Sullivan and the agents were facing danger in the event their identity was discovered by the gangsters. Many witnesses were located in New York City, Florida and other points throughout the country.

Early in November of 1930, it apparantly became evident to the Capone organization that the United States government was making real headway in the income tax investigations relating to the principals in their organization and that most strenuous efforts were being made to build up a case against the leader, Al Capone. At that time Jack Guzik, the right hand man of Capone was indicted for tax evasion, tried and convicted within one month in spite of unusual efforts made by the organization through political influence and otherwise, to postpone the trial of that case and Frank Nitto, another principal of the organization was apprehended by special agents of this Unit after he had successfully defied arrest for a period of over six months by marshals on a bench warrant for tax evasion. This progress was being reported to the President from time to time by officials of the Treasury Department and he indicated that it was his wish that the drive be continued against the leader of the Capone organization. At that time you made a trip to Chicago to confer with us regarding this case and you advised me that on account of the great interest shown by the President, he was being regularly informed regarding the tax cases relating to the Capone organization by Assistant Secretary of the Treasury Walter E. Hope. Al Capone's fear that he would be the next one to be indicted was

reported to me by a very confidential source and also that he had decided upon a sensational method to prevent further molestation of him and his gang by the government. We were reliably informed that in order to put an end to our further activities in the tax investigation, he was planning to kill United States Attorney George E. Q. Johnson, Special Agent in Charge A. P. Madden, Investigator P. F. Roche from the office of the Cook County States Attorney and me. We also were advised that he had arranged to import five gunmen from New York City to murder the officials whom he was convinced intended to secure evidence to cause his prosecution. We were later informed that the imported New York gunmen had arrived in Chicago and were cruising around in a blue sedan bearing a New York license tag. This information was partly corroborated through information furnished voluntarily to the Chicago Tribune from a source considered dependable by them which was entirely unrelated to the original source which furnished us the above report regarding the plot to murder us. An active search for Capone and the imported gunmen was immediately started by our agents and investigators from the States Attorney's Office. We learned that Capone and some of his gang were hiding in the house of a friend in Cicero. Arrangements were made to secure the cooperation of a detail of detectives from the office of the States Attorney of Cook County in order to raid the house but upon the arrival of the raiding detail it was found that Capone and his gang had just departed. I was later informed that one of the Cook County detectives tipped off Capone in advance of the raid and was paid for the warning. Further efforts at that time to locate Capone and his associates were unsuccessful. We were informed that he had learned that the government was aware of his plot to stop his prosecution, that he then abandoned the plan at the demand of other members of his organization and that he had departed for his home at Miami, Florida. Our activities in interviewing witnesses with reference to Capone and in gathering evidence to establish his income tax evasion were not diverted because of his threat or plot against our lives. We did, at your suggestion, take certain precautions in order that persons not connected with our office would be unable to learn about our movements. In view of the progress which we were making in establishing evidence relating to his tax evasion, and as he had abandoned his plot, it was not considered advisable to take further action regarding his efforts to prevent the continuance of our investigations but we did redouble our efforts to secure tax evidence against him. The facts regarding this plot of Capone to put an end to the investigation were carefully guarded and reported only to our superiors and to P. F. Roche, Chief Investigator for the States Attorney of Cook County as we felt that any publicity regarding Capone's plan to cause the murder of four officials would

instill greater fear in the minds of all our witnesses and make them purposely forget about their dealings with him or cause them to give perjured testimony for fear they would be murdered by the Capone organization if they assisted the government. On April 21, 1931, we were surprised to read in the Chicago Daily Tribune a complete report of the facts regarding the Capone murder plot which had been given to that paper by a representative of the Cook County States Attorney. A copy of that article is attached as Exhibit No. .

In that article reference is made to the murder of Jake Lingle, a reporter on the Chicago Tribune who had been for many years a personal friend of Al Capone and who knew a great deal about his illegal activities. Shortly after my arrival in Chicago on this assignment I was informed that Lingle and Capone were no longer on friendly terms. On June 1, 1930, a few days before the murder of Lingle, I had arranged through an attorney representing the Chicago Tribune who had given me valuable cooperation on another case and through the Editor of the paper, to interview Lingle at their office in order to attempt to secure his confidential cooperation in this investigation. The representatives of the Tribune advised me they knew that Al Capone confided with Lingle; that they believed Lingle knew a great deal more than any other reporter in the country regarding Capone's activities; that they would be pleased to have him confidentially cooperate with me and they assured me they would encourage him to do so but he was murdered before they were able to fix the date of the interview for me. The motive for the murder of Lingle has never been established. The Chicago Tribune offered a reward of \$50,000.00 for the arrest and conviction of the guilty persons and spent nearly that amount in their efforts to solve the mystery, especially to establish a motive for the murder. A gangster from St. Louis, Missouri, named Brothers was convicted of this murder but at the trial no motive was proven and it was strongly suspected that he had been hired to do the killing by some of the Chicago associates of Lingle. Al Capone was one of the persons most mentioned in reference to the Lingle murder and many persons alleged that the death of Lingle was caused by the Capone organization. In October of 1930, P. F. Roche as Chief Investigator for the Cook County States Attorney in Charge of the investigation to locate the murderer of Lingle, approached Al Capone and Louis Greenberg, a member of the Capone gang, in an effort to secure Capone's assistance in finding the guilty person. At a secrete conference which Mr. Roche had with Capone, he professed ignorance regarding the identity of the murderer and agreed to assist Roche in locating him. Later during the negotiations Capone intimated that he had found the guilty man and early in November 1930, Capone offered to turn the dead body of the murderer of Lingle

over to Roche. Roche then declined to have anything further to do with Capone. John Boettiger of the Chicago Tribune staff, an investigator familiar with all the facts and circumstances concerning the murder of Lingle and the subsequent investigations by the States Attorney's Office and by the Chicago Tribune, published the following statement in that paper regarding Capone's guilty knowledge concerning the identity of the murderer:

"The best guess is that Capone did know, and this guess is borne out by evidence to be disclosed later. There is no doubt that if Capone thought he could remove the 'heat' from himself and his gang, and bargain for a reprieve from the raids and arrests and convictions resulting from the investigators' activities, he would have done so, even at the cost of putting the Lingle murderer on a doorstep somewhere, dead."

This office has expressed no opinion as to whether the Capone organization was involved in the Lingle murder and has drawn no conclusions with reference to the motive for his murder. In the article in the Chicago Tribune, Exhibit No. 167, the following statement is made regarding the motive for the murder of Lingle:

"As a matter of fact, the authorities possessed information that established a possible motive which Capone himself might have had to desire the death of Lingle. Within three days after the reporter's murder, agents of the federal department of justice came to THE TRIBUNE, inquiring whether THE TRIBUNE had any knowledge of evidence concerning the income of Capone.

"The federal investigators were at work seeking evidence upon which to base an indictment of the gang chief for income tax frauds, and sought this newspaper's aid.

"THE TRIBUNE knew of no evidence concerning sources of Capone's income. But Lingle, through the familiarity he maintained with the gangster, might have possessed knowledge of the manner in which Capone disguised and concealed the sources of his illicit profits, and of banks in which Capone maintained accounts under fictitious names.

"Lingle, dead, could not present evidence of Capone's income tax frauds."

SI-7085-F

There is attached herewith as Exhibit No.168, a memorandum stating the position of United States Attorney Johnson in reference to the acceptance of a plea of guilty from the defendant, Al Capone. This Department concurred with the Department of Justice in the decision to entertain a plea of guilty from Capone. I believed it advisable to entertain a plea of guilty because on account of my very close contact with the important witnesses in the tax case, I was convinced that every one of them was in deadly fear of the Capone organization and we could not be certain that they would identify Al Capone at the trial or that they would stand by the testimony given before the grand jury. We took unusual precautions to keep their identity secret and to protect them from contact with any members of the Capone organization between the time they appeared before the grand jury and the trial so that they could not be threatened or influenced. However, many of the key witnesses did temper their testimony in his favor at the trial when they were faced by Capone and his body guard, D'Andrea. I also considered the acceptance of a plea of guilty advisable because I knew the organization would attempt to illegally influence the jury at the time of the trial and if their efforts to do so had not been promptly discovered and thwarted I am sure they would have succeeded in influencing or bribing one or more of the jurors so that the trial would have been unsuccessful for the government. (Details relating to an unsuccessful attempt to fix the jury are set forth later in this report).

No stones were left unturned by the defense in order to prevent the conviction of the defendant, Capone. Some of their efforts most likely would have been successful if they had not been discovered by us and drastic and prompt action taken by the government to prevent the consummation of their tricks. Important witnesses were sent by the defense to other states, also out of the country, and the principal defense witnesses gave perjured testimony at the trial. During the trial the defendant and his armed body guard, Phillip D'Andrea, glared at the government witnesses instilling fear in them and causing them to temper their testimony in favor of Capone. The most daring effort to thwart the case of the government was an attempt to fix the jury. A few days before the trial was scheduled a special venire of one hundred was called for jury service in this case. By an underhand method and through the payment of a large sum of money, the defense secured a copy of the list of proposed jury men several days before it became public. The list was turned over to Al Capone at his office in the Lexington Hotel (this information was secured from such a confidential source that no prosecution of the members of the organization for attempts to reach the jury was advisable). Capone then submitted the list of names to various

members of his organization, agents of labor unions and other friends in order to have them promptly start to work to bribe or to bring influence to bear on the proposed jury men in favor of Al Capone. Undoubtedly they would have succeeded through these efforts in planting one or more friends on the jury if they had not been out-smarted. Their activities were at once reported to Federal Judge James H. Wilkerson who was to try the case and on the first day of the trial the entire panel of one hundred was withdrawn by the Judge from this case, a new venire being used. This surprise move by the government did not stop the efforts of the defense as a special committee of the gang immediately started to gather information regarding the connections of the men selected as jury men from the new venire. During the course of the trial attempts were made to have members of the family of the jurors convey messages to influence them in favor of the defendant and Capone bragged to his followers that he would not be convicted because he had the jury. Their efforts were unsuccessful as the court ordered the jury locked up until the trial was completed and details of deputy marshals and special agents were placed on duty to prevent interference by the organization with the orderly and fair trial of the case. It is not at this time alleged that the attorneys representing the defense took any part in the attempts of the organization to reach the jury.

On October 17, 1931, the defendant was found guilty of evasion of income taxes for the years 1925, 1926 and 1927 and for failure to file income tax returns for the years 1928 and 1929. On October 24th Federal Judge Wilkerson sentenced him to five years in the Federal Penitentiary on each of the three felony counts, two of which are to run concurrently and he was sentenced to one year in the Cook County Jail on each of the two misdemeanor counts, the jail sentence to run concurrently. This sentence requires the defendant to serve the ten years sentence in the Federal Penitentiary first and when released from the penitentiary he will be taken to the Cook County Jail to serve the jail sentence. He was also fined \$50,000.00 being \$10,000.00 on each of the five counts and in addition to that amount he was fined the costs of the prosecution. The defendant was remanded to the custody of the United States Marshal without bail and was confined in the Cook County Jail awaiting the outcome of an appeal. The time served by him in the Cook County Jail awaiting the outcome of his appeal did not apply on either the penitentiary or the jail sentence. On February 27, 1932, the United States Circuit Court of Appeals for the 7th District unanimously sustained the conviction. An appeal was then taken to the United States Supreme Court without success. On May 1st, 1932, he entered the Federal Penitentiary at Atlanta, Georgia.

After the indictments against Capone were returned and during the trial it was anticipated that the attorneys for the defense would attempt to cause the indictments to be set aside on the ground that the offenses charged in the indictment were outlawed by the Statute of Limitation but that point was not pressed by the defense until after the defendant had been convicted and the conviction was sustained by the Supreme Court. We were proceeding on the theory that a prosecution could be started within six years but as a District Court in Boston had recently set aside an indictment based on the six year statute, we were prepared to base our prosecution on the three year statute in the event that question were raised at the trial. We had secured evidence and were ready to establish that the defendant was outside the jurisdiction of the Northern District of Illinois having spent from time to time in excess of three years at Philadelphia, Pennsylvania, Miami, Florida, Hot Springs, Arkansas, Los Angeles, California, and other points, thereby bringing the offenses charged within the three year term. After the defendant started to serve his sentence in the Federal Penitentiary at Atlanta, his attorneys attempted to secure his release on the ground that the Statute of Limitations had expired before the indictments were secured but they have been unsuccessful in their efforts.

I desire to call attention to the fine cooperation extended to me during this investigation by the following officials in Chicago and to express my thanks for the courtesies extended by them to me and the other agents engaged upon this investigation:

United States Attorney George E. Q. Johnson,
Special Agent in Charge A. P. Madden,
Assistant to the General Counsel Dwight H. Green,
Assistant Attorney General William J. Froelich,
Assistant United States Attorney Jacob L. Grossman,
Assistant United States Attorney Samuel Clawson,
Internal Revenue Agent in Charge C. W. Herrick,
Supervisor of Accounts and Collections James Mitchell,
President of the Chicago Association of Commerce,
Colonel Robert Isham Randoiph.

The splendid cooperation and whole-hearted encouragement of United States Attorney George E. Q. Johnson and his staff during the grand jury investigation and at other times during the preparation of this case served to spur me and the other agents engaged upon the investigations to exert our best efforts to secure evidence and witnesses who could furnish the facts necessary for the indictments. One of the most important factors in the success of the prosecutions was the policy established by Mr. Johnson that all other cases in

his office would be subordinated to Capone cases and that the cases should be tried with unusual promptness. A new record for quick action in income tax cases was established in the case against Jack Guzik. An indictment was secured on October 3, 1930, and he was brought to trial on November 3rd, 1930, the trial resulting in a conviction for which he was sentenced to five years in the Federal Penitentiary at Leavenworth, Kansas. The prompt justice dealt to the defendant, Guzik, was a master stroke in breaking the morale of the Capone organization and thereafter we did not encounter so much resistance from witnesses and others as they had been shown by that prompt action that the government was in dead earnest in these investigations. The ability and sound judgment of Mr. Dwight H. Green, Chicago representative of the General Counsel of the Internal Revenue Bureau who was designated by Mr. Johnson to have charge of the prosecution and who cooperated with the writer during the entire investigation, was demonstrated by the exceedingly able manner in which the case was prepared for trial and presented in court. Mr. Green had the efficient cooperation and valuable assistance of Assistant Attorney General William J. Froelich, Assistant United States Attorney Jacob L. Grossman and Assistant United States Attorney Samuel Clawson.

During the entire investigation all the facilities of the Chicago office of this Unit were placed by Mr. A. P. Madden, Special Agent in Charge, at the disposal of myself and other agents engaged upon the case and Mr. Madden cooperated whole-heartedly with me throughout the entire investigation. The continued interest of Mr. Madden in this case after it had been assigned to me, his valuable counsel and his very material suggestions regarding important phases of the investigation were sincerely appreciated and were very important factors contributing towards the success of the various prosecutions. From time to time it became necessary for me to secure assistance from Revenue Agent in Charge Herrick, Supervisor Mitchell and Colonel Randolph, President of the Chicago Association of Commerce, and upon each occasion they cooperated to the limit.

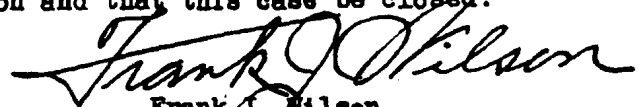
It is also desired to call attention to the fact that as agent in charge of this investigation I received frequent assistance and information of very great value from confidential sources which was one of the most important factors in the successful conclusion of the case. As the lives of the persons who furnished this information and cooperated with the government during the investigation would probably be placed in jeopardy on account of the vengeance of the Capone organization if their help became known, it is not considered advisable to mention their names in this report. These persons, together with the organizations which they represented, deserve great commendation for their faithful and unselfish public

service rendered to the government. Although their names cannot be furnished at this time it is suggested that some action should be taken to express the appreciation of the government for their confidential cooperation.

I desire to call attention to and to express great appreciation for the spirit of cooperation apparent at all times and the unusual ability displayed during this investigation by Revenue Agents W. C. Hodgins, Noble Claggett and Jacque Westrich and Special Agents Nels Tessem, M. F. Malone and James T. Sullivan. These agents were engaged upon the investigation almost continuously from May 1930 until its conclusion. The ability shown by Mr. Tessem in tracing various financial transactions of members of the organization through the Pinkert State Bank and other institutions was one of the most important factors of the investigation. The successful termination of the income tax cases and prosecutions in Chicago of Al Capone, Frank Nitto, Jack Guzik, Sam Guzik and Louis Lipschultz was due to a great extent to the persistence of these agents, to their exceptional ability and to their willingness to assume their share and more than their share of the hard work which was facing all of the agents assigned to these cases. Valuable assistance was also rendered on these cases by Special Agents Oliver, Clark, Brown, Converse and Elmore. The cooperation of Assistant Chief W. H. Woolf and Special Agent in Charge John R. Cox of the Washington Division and their staffs in expediting reports on frequent requests made by me for information desired from the Bureau at Washington and other points, was of great value in the furtherance of our investigation at Chicago.

The unusual interest shown in this investigation, together with the encouragement and whole-hearted cooperation rendered at all times by the General Counsel of the Internal Revenue Bureau and staff, officers and employees of the Bureau, agents in the field and your official and personal interest in supervising the investigation was a continual source of satisfaction to me and all of the agents engaged upon this work. At your direction I furnished you with frequent reports regarding the progress of the investigation and your counsel at many conferences in Washington and during your several trips to Chicago to help on the important phases of this case was of great value. I desire to express my appreciation and that of the agents for the efficient manner in which our activities were directed by you during this investigation and to thank you for the courtesies and encouragement shown to us during the entire period.

It is recommended that copies of this report be referred to the General Counsel of the Internal Revenue Bureau and the Special Adjustment Section for appropriate action and that this case be closed.


Frank J. Wilson,
Special Agent.