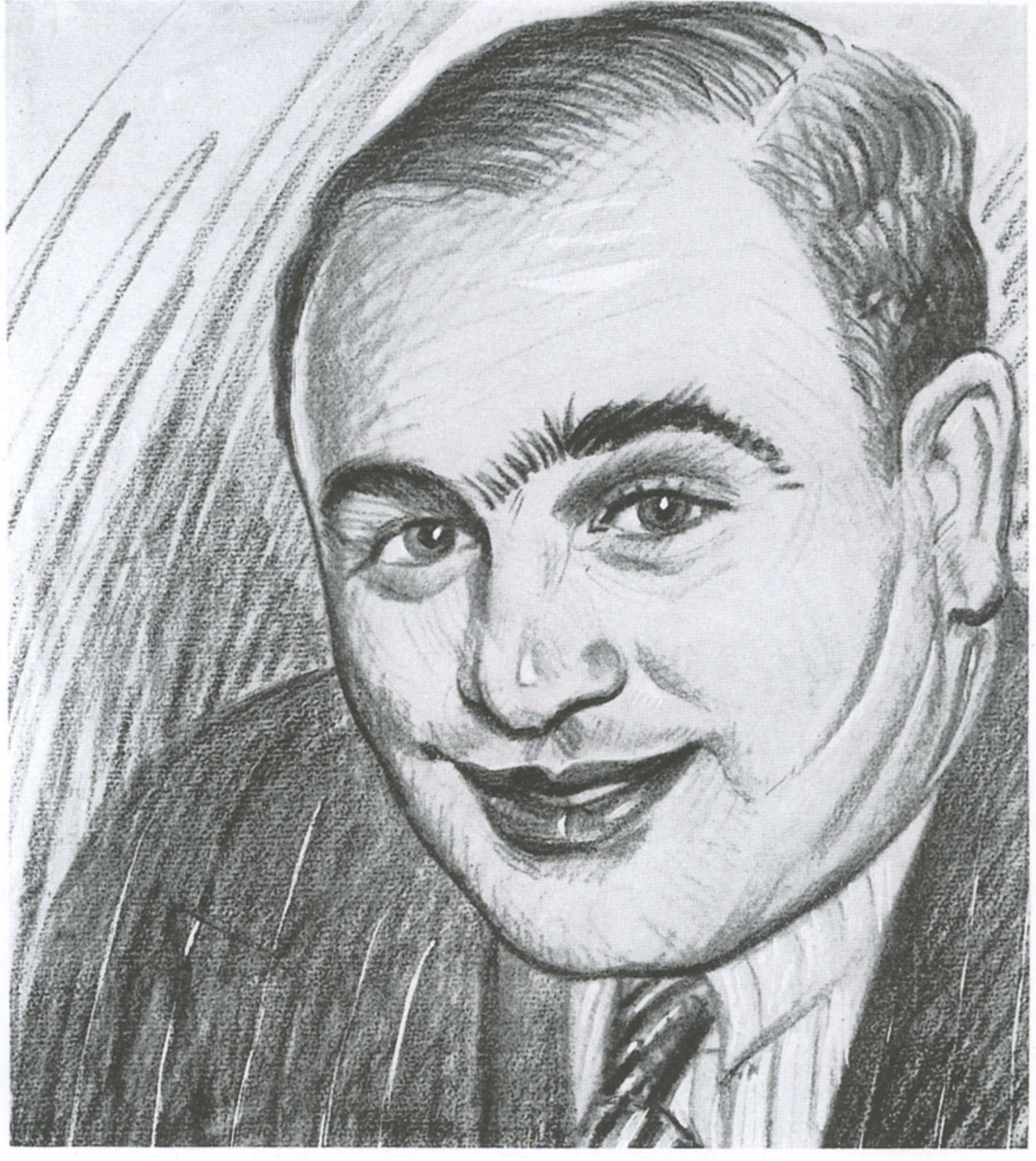




## Scars and the Man

*An Aside or Two on the Passing of a Chicagoan*

By MILTON S. MAYER



*The Side Nobody Knows - by Sandor*

**T**HEY have taken Al Capone's life, but, (meaning no offense to Harold Bell Wright's heroines) they have not robbed him of his honor. He is still the most sensational man on earth, and, being both simple-minded and low caste, he prefers that to any other prize the world has to offer.

They have taken him out of circulation the way they take out an Indian penny, but they have not stripped him of his special greatness. A month ago "Scarface Al" Capone was still a doubtful quantity. No one who knew had ever talked; all of us who didn't know had always talked—and we didn't know if Al was really the head man or if he was just the scarecrow and the Rev. Preston Bradley, Dr. Harshe of the Art Institute or A. A. Stagg was the real power of darkness in Chicago. Now we know. "Scarface Al" Capone is a doubtful quantity no longer. He has discarded the floss of legend for the raiment of reality. He's the "big shot" in fact, and the big shot, in your business, mine, or Capone's, has a place in the history books.

**C**APONE is dead, dead, as Sargon II, dead as Savonarola, dead as a turkey. When this purgatory is ended, he will sing, as they sing it at Eton, "Dulce, 'Domum,'" and his scarfaced ghost, with his twenty-three suits twenty-three sizes too large for him and the haunch, the paunch, and the jowl all fallen away, will come home. The ghost of Capone will come home to the wife who was proud with him, the mother who was proud of him, and the boy he was so proud of. He may open a pet shop or import ripe olives, and he'd better, because if he goes back to Twenty-Second Street he'll be less than a ghost—he'll be a bum. It's an old practice in his business: they don't hold your job for you when you're dead. He'll not want to be a bum—he was a bum once, and when you're a bum you're liable to get into an argument in a Coney Island saloon and a quick little guy is liable to put a knife on you and give you three long cuts on the left side of your face that you'll try to hide the rest of your life and wish

## *Al Capone*

to God you didn't have.

He's dead, all right.  
Who killed him?  
Who killed McSwiggin?  
Who killed Lingle?  
Who killed Capone?

**W**HO did kill Capone, anyway?

Was it Juror No. 5, who lay on the back of his neck, his eyes closed, his breathing regular, from the beginning of the trial to the end?

Was it the girl reporter, who asked, "You're not afraid, Mr. Capone, are you?"

Was it Attorney Ahern, who said, "He's a myth—a modern Robin Hood"?

Was it Attorney Fink, who said, "Isn't it terrible, gentlemen—now I ask you—isn't it just terrible that the government will ask you to bring in a verdict of guilty on a proposition like that?" Was it Attorney Fink, who said, "Not Al Capone, not a fellow who spent and gave the way he did; a tinhorn or a piker might have tried to cheat the government out of its tax, but not Al Capone"? Was it Attorney Fink, who said, "They're crucifying him"? Was it Attorney Fink, who said, "Isn't it remarkable, when you come to think of it, the way divine providence sometimes works out poetic justice?"

Was it Judge Wilkerson, who leaned over the bar, balancing his head in his hand, a la Landis, and said, "Do you think that there was anything providential about this verdict, Mr. Fink?"

Was it District Attorney George E. Q. Johnson, who brought Juror No. 5 out of his torpor when he cried, in the fever of his eloquence, ". . . This man, with his \$27,000 shirts. . . ."?

Was it Assistant Prosecutor Green, who bullied and badgered the defense witnesses because they couldn't remember the name of a race horse Al Capone had bet on seven years ago?

**W**AS it Oscar Gutter, the bookie, who said, "Yeah, sure, of course I kept a record—so I should know how much income taxes I had to pay"?

Was it H. F. Ryder, the carpenter, who said, "Mr. Capone owes me \$125, but he's a mighty fine man"?

Was it the man who sold Al Capone his \$12,500 McFarlands, who said, "Mrs. Capone said she wanted a car built similar to a friend of theirs"?

Was it Lester Shumway, the one-time gambling house cashier, who wiped the perspiring palms of his hands with his handkerchief, wiped his forehead and the corners of his mouth, shivered, quavered, trembled, and stammered, and said, "I was getting ready to take the money to the bank one day and Al came into the office and said, 'You'd better watch out, carrying all that money—you're liable to get stuck up'?"

Was it the salesman who explained that there was nothing especially warm about Mr. Capone's \$12 pair of Little Lord Fauntleroy drawers but that it was "just a nice suit of underwear?"

Was it the defendant's mother, who might have taken the witness stand—but didn't—and destroyed the damning evidence of the twenty-three \$135 suits by explaining that Alphonse went through his clothes something awful?

## *Al Capone*

Was it Attorney Fink's feminine secretary, who sat at the defense table, refreshed the defendant with lime drops, and wore a collection of tweeds and turbans that would have done your old heart good?

Was it the \$275 diamond belt buckle that was passed around to twelve men who hold up their pants with string?

Or was it the three grinning welts and the unholy name of "Scarface Al?"

**MIND**, I hold no brief for the dead man. I am a great one for lawfulness at heart. Could I have stayed the cleaver that lopped Al Capone's head into the basket, I would not have done it. He had had his fling. He had had a swell time, which, after all, is the wick of life's lamp. Now he is earning his swell time. Most men do it the other way around—earn their swell time first, and then have it. Either way it's a nicely balanced life, and it's good enough.

Still, I am sorry for him.

I am afraid that my heart goes out to Al Brown, to Alphonse Brown, to A. Costa, to Albert Costa, to "Scarface" Brown, to Al Ross, and to Al Phillips.

My heart goes out, in short, to Al Capone.

Peck's Worst Boy went to trial with the blight on him. He had been called out before he ever reached the plate. It wasn't the United States vs. Alphonse Capone, it was all the people in the United States vs. Alphonse Capone. "A fair trial? I'll say I'll give that baby a fair trial. Just let me onto that jury."

There he sat, he who had never known what it was not to have ten or fifteen of his playmates on each side, in front, and in back; there he sat, as alone as a man in a grave.

Were the dapper Ahern and the Ciceronian Fink at his side to counsel or comfort? Not they—they were out there in the arena lawyering for all they were worth, fighting hoof and mouth for the good name of Ahern and the good name of Fink.

Were the massed gentlemen of the press, they who in other days and in other places had called him "Al" and had patted him on his fat back, were they there to see to it that the public got both sides of the story? They were not. They were writing "the criminal of the century," "the emperor of the underworld," "the symbol of lawlessness," "the ringmaster of crime," just as fast as their little pencils could move.

**WERE** his "boys" there, their backs against a convenient wall, their hands in their coat pockets? No, his boys had not been invited. But who was the little man, darker even, sleeker even, plug-uglier even, than Alphonse, sitting behind the defendant, wearing the modish half-belted model of gangrene-green? That was Phil D'Andrea, faithful Philip. Philip had trotted in alongside his master carrying a brief case and pretending to be a lawyer. But Philip had wagged his artillery behind him, and the judge objected to performing his functions with a cannon in the courtroom, so Philip was muzzled and taken to the pound.

And Al was left alone. He blinked, he sputtered, he grinned the wretched grin of a man who knows he is licked, his olive puff-ball of a face wrinkled in bewilderment, and the double chin in the back of his neck rolled down his coat collar in despair.

## *Al Capone*

He fought alone—gangsters don't know how to fight alone—and he died alone. And he will be buried alone any day now in Chicago's own cemetery—Leavenworth. If Pilate gave the people a good show, if the Louis' gave the people a good show, if the James boys gave the people a good show, why, by golly, Al Capone gave the people a good show. And a man like that, as Talleyrand has so cryptically put it, can't be all bad.

**I**T IS no fault of the Messrs. Hoover, Wilkerson, and Johnson that they were where they were when the internal revenue department christened Al Capone "Tax Evader" and launched him down the greased ways into the ocean of ignominy. The implication cannot be legitimately drawn that the neck of Al Capone was used as a rung for anyone's political ladder. None the less, the outcome of the trial has not redounded to the discredit of the present White House administration, the present attorney general's office, nor the present Republican campaign to make Judge Wilkerson governor of Illinois.

Judge Wilkerson gave Capone a fair trial. I close that sentence with a period. He did not send Attorney Fink to jail when Attorney Fink accused him of railroading the selection of jurors and repeatedly charged him with asking the prospective jurors "leading questions." He did not send Attorney Fink to jail when Attorney Fink said, "Yeah, I thought you would overrule our objection." He did not send Attorney Ahern to jail when Attorney Ahern accused him of depriving Capone of his constitutional rights and challenged him to look up the law. He only replied, "Do you presume to tell the court what to do?" and did nothing more.

He did not yield to the prosecution's demand that the defense testimony of Al Capone's bookies be stricken from the record. He did not, by word, by mien, or by gesture, impeach the testimony of those bookies.

He did not, during the trial, accuse those bookies of perjury.

And that last was not only fair but generous. A generous trial for Al Capone, however, is only a fair trial for anyone else.

Some days after the Capone trial you will remember that Judge Wilkerson sentenced Sig. D'Andrea to six months in jail for concealing a gun under his belt the way a slicker conceals the pea under the wrong shell. On this occasion the judge issued a statement which referred to the Capone defense case—the testimony of the bookies—as a "shocking array of perjury."

Here, in the opinion of a plain man but honest, Judge Wilkerson was mistaken. The prosecution contended that Mr. Capone's bookies were acting under orders when they remembered the colossal yearly totals of their winnings from Capone and remembered nothing else—not the name of a single horse he bet on, not the date of a single bet, not the amount he won. But that the testimony of these men was necessarily perjured Judge Wilkerson had no right to infer. Perhaps he did not infer it. But the jury did, and the jury convicted.