

# TEN INDICTMENTS RETURNED IN COCOANUT GROVE HOLOCAUST

**Grand Jury Flays City's Departments for Laxity;  
Creation of Department of Public Safety Recommended**

By Alton Blackington

**A**FTER listening to evidence from many witnesses over a ten day period including several night sessions, the Suffolk County Grand Jury returned eleven indictments against ten Boston men in connection with the Cocoanut Grove holocaust of November 28, in which 489 persons perished.

Four city officials were indicted. They were: Building Commissioner James H. Mooney; Captain Joseph A. Buccigross, veteran police official; Fire Lieutenant Frank J. Linney; and veteran City Building Inspector Theodore F. Eldracher.

Barnett and James Welansky, operators of the night club and Jacob Goldbine, steward, were charged with manslaughter. There were thirty-two counts returned in two indictments against the three operators.

Other indictments were brought against Rueben O. Bodenhorn, decorator, David Gilbert, construction worker, and Samuel Rudnick, contractor.

In addition to the eleven indictments, the Grand Jury criticized the Boston police, fire, licensing, and building officials as well as the management of the Cocoanut Grove and two contractors.

The jury, a body of twenty-three men, completing a six months session, indicted Lieutenant Linney of the Boston Fire Department Prevention Bureau on twelve counts of accessory after the fact of manslaughter besides wilful neglect of duty. It was Lieutenant Linney who inspected the Cocoanut Grove eight days before the disastrous fire and reported finding flame-proofing conditions "good."

Lieutenant Linney has been a city employee since 1909, and was appointed a lieutenant in the Fire Department May 29, 1929. He was originally held in \$2500 bail, but when arraigned before Judge Frank J. Donahue on January 4 in Suffolk Superior Criminal Court, his bond was raised to \$5000.

## Building Inspector Indicted

Building Commissioner Mooney, appointed four years ago by Mayor Tobin, was indicted on a charge of neglect of duty. The indictment set forth that being a public officer charged with the administration of the building laws he "wilfully neglected, and omitted and refused to cause enforcement of such provisions."

Captain Buccigross, night commanding officer at the Warren Avenue station, who was in Cocoanut Grove when the fire started, "wilfully, corruptly failed and neglected and omitted and refused to enforce the law of the Commonwealth requiring the remedying of conditions in or about the Cocoanut Grove with respect to fires, fire prevention and fire

hazards." The second count of this indictment against the police captain, set forth that he "wilfully and corruptly failed, neglected and refused to enforce the law of the Commonwealth requiring the removal from floors, halls and stairways of obstacles which might interfere with the means of access or exit or with the operation of the fire department in case of fire."

Theodore Eldracher, a city building inspector, was indicted on the charge that being a public officer, he failed to report violations of the building laws, and in a second count, was charged with failure to report an insufficient number of exits at the Cocoanut Grove.

Rueben O. Bodenhorn, Samuel Rudnick, David Gilbert and the Welansky brothers were charged in still another indictment with conspiracy to violate the building laws.

The Welanskys and Goldfine were charged with manslaughter in two indictments, with each indictment carrying sixteen counts. The other felony indictments were those returned against Lieutenant Linney who is charged with being an accessory after the fact of manslaughter.

An unusual situation developed when the defendants in the Grove case presented themselves to offer bail. The State Police headquarters on Commonwealth Avenue is in Norfolk County on the Brookline side of the street.

Bail Commissioner Joseph Fahey, who

has been on the job for the past forty years, was called to collect the bail, but as he couldn't legally work in Norfolk County, the defendants were taken to the State House which is in Suffolk County, after they had been booked at State Police headquarters.

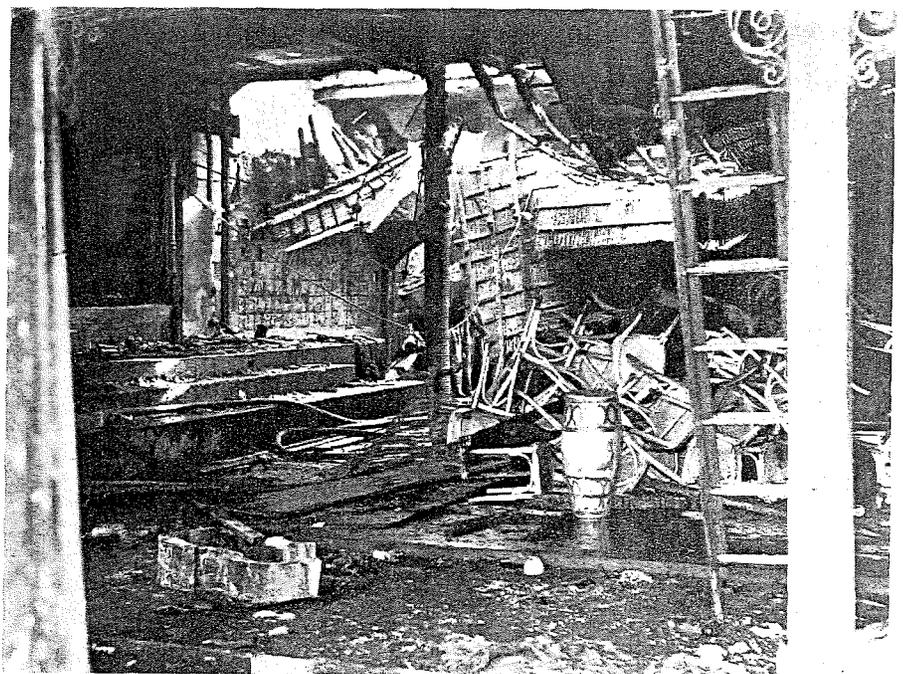
That there may be more indictments was indicated by Attorney General Robert T. Bushnell when he stated, "The investigation by attorneys for the Commonwealth into the question of criminal responsibility for the Cocoanut Grove disaster is not ended, and will not end until all available avenues of inquiry along this line have been covered.

"I am not yet satisfied that, in the comparatively short space of time since the fire, this point has been reached. Additional evidence which may yet be secured relative to criminal liability will be presented to a future Grand Jury."

## Report of the Grand Jury

The eleven indictments were returned to Chief Justice John P. Higgins of the Massachusetts Superior Court in an unusual setting. Attorney General Bushnell who had been in the Grand Jury room almost every minute from the time the state probe began two weeks ago was absent at 3:40 P.M. December 31st when the twenty-three men comprising the jury filed into the Court Room. The Chief Justice thanked the jurors for their service and dismissed them. The defendants were not finger printed or photographed as those processes are for the purpose of identification. Before the jury was dismissed, it made the following statement, "We, the Suffolk County Grand Jury, have heard testimony assembled up to the present time relative to the Cocoanut Grove case and have returned indictments thereon. In addition to facts upon which our indictments are based, we have found certain conditions which in the interest of public safety must be corrected as speedily as possible.

"Realizing that we, as a Grand Jury, have no power to correct such conditions



Corner of Main Room of Cocoanut Grove Night Club After Fire. Orchestra Stage at Left

and that our term of service is about to end, we wish to record certain conclusions which the evidence compels us to draw, even though such evidence may fall short of establishing wilfulness or corruption required to make neglect of duty a criminal offense; (1.) We have found among members of various departments charged with the protection of public safety, laxity, incompetence, failure to fulfill prescribed duties effectively and also lack of complete knowledge of duties.

"(2.) We have found shifting of responsibility and a tendency by various officials in different important departments to rely too much on their subordinates without exercising sufficient and proper check on such subordinates. Officials in each department seemed to attempt to shift the responsibility to some other department and vice versa.

"(3.) We have found no complete coordination between Building Department, Fire Department, Police Department and Licensing Board with respect to various types of inspection intended to be made to insure public safety in addition to protecting the public health, morals, etc.

"We hope that by thus calling attention to conditions which have come within our knowledge the more effective and immediate remedying of such conditions may be made possible. Respectfully submitted,

Suffolk County Grand Jury,  
December 31st, 1942."

The above statement was signed by the entire panel.

Both Welanskys and Goldfine were represented by attorney Herbert F. Callahan, and the three men were released on \$10,000 bail, double surety each, pending their arraignment.

Other defendants were bailed in \$1000 each with the exception of Lieutenant Linney who was first bailed in \$2500 and later raised to \$5000.

Asked what action he would take in retaining Building Commissioner Moonney, Mayor Maurice J. Tobin said, "While the matter is before the Court, any



Main Entrance on Piedmont Street. Some of the Guests Escaped Through Windows of This Building

action of mine other than retaining him on his job would be to prejudice his position before the Court."

Police Captain Joseph Buccigross was automatically suspended.

Lieutenant Linney still holds his position as fire prevention inspector.

Preceding the arraignments on January 4th, Judge Frank J. Donohue significantly addressed the new Grand Jury and repeatedly stressed the fact that they might institute as they saw fit an independent investigation into any matter they considered appropriate, without benefit of the District Attorney or Attorney General. Judge Donohue warned

the jurors that it is a crime for newspapers to print the names of persons secretly indicted before the person indicted is arrested, thus giving that person "a chance to escape."

Assistant District Attorney Frederick Doyle stated that the Attorney General would seek an immediate date for the trial, but legal questions can delay the trial for several weeks.

Behind the proceedings was the unmentioned but always significant memory of the prosecution following the Pickwick Club Disaster on July 4, 1925, when forty-four persons were killed. Of the twelve persons indicted in the Pickwick collapse, ten were subsequently discharged on directed verdicts of "not guilty" and the remaining two were acquitted.

The major sequel came in the clogging of the Suffolk County Court dockets with the largest number of damage suits in the county's history.

As we go to press, Mayor Tobin and Gov. Saltonstall are arranging a conference aimed to bring about closer cooperation among all municipal departments.

In his opening address to the new City Council of Boston, Mayor Tobin recommended the creation of a new municipal department of public safety under direction of a commissioner appointed by the Mayor and to which the Police and Fire Departments, the Licensing Board and the Building Department would be held accountable.

Gov. Saltonstall has announced that he will refer to proposed legislation to remedy what the Grand Jury cited as "laxity, incompetence and failure to fulfill prescribed duties effectively"—in his inaugural message.

(EDITOR'S NOTE: The reports of the various investigating groups has not been completed. As soon as they are completed they will be published in the first available issue of FIRE ENGINEERING.)