

# Marcello Case Rested; Court Denies Mistrial

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(Special to the States-Item)

HOUSTON—The government rested its case today in the trial of New Orleans racketeer figure Carlos Marcello on a charge of assaulting a Federal Bureau of Investigation agent.

Defense attorneys immediately sought but were denied their motions for a directed judgment of acquittal and for a mistrial because a comment in testimony about "La Cosa Nostra."

Defense testimony was to begin this afternoon.

An irate federal district judge threatened to throw the government out of court when its key witness mentioned "La Cosa Nostra."

"Whether I can take that skunk out of the jury box, I don't know," said U.S. Dist. Judge John V. Singleton Jr., after removing the panel from the courtroom yesterday. "I'm very inclined to grant a mistrial—but too much time, effort and taxpayers' money has gone into this case.

"IF THE GOVERNMENT wants to take these chances of getting cases reversed on appeal, it can go right ahead."

The object of the judge's anger was testimony by FBI agent Patrick J. Collins Jr., 39, that he and a Marcello associate, Michel A. Maroun of Shreveport, had discussed "wire tapping and we did discuss La Cosa Nostra." During a Feb. 12, 1968 conversation at the Town and Country Motel in Metairie.

In the case on trial, Marcello is accused of assaulting Collins at New Orleans international Airport Sept. 30, 1966, shortly after Marcello arrived on a flight from New York, where he was arrested eight days earlier at a so-called "Little Apalachin" meeting of underworld figures.

Collins was being cross-examined by Marcello's attorney, Jack Wasserman of Washington, D. C., about the subsequent meeting with Maroun, whom Collins identified as a "longtime business associate and close personal friend" of Marcello, as well as a night club manager, entertainer and attorney.

THE AGENT denied he had told Maroun the assault case "was an accident." When Wasserman passed the witness, Asst. U.S. Atty. Owen Neff, of the Justice Department's criminal division, asked Collins what he and Maroun had discussed—which prompted the Cosa Nostra reference.

Maroun aided in Marcello's defense when the case was tried in Laredo, Texas, last May—after it was transferred on a change of venue from New Orleans because of alleged prejudicial pretrial publicity. The Laredo jury failed to reach a verdict.

Since being moved here, the case has been shrouded in secrecy. Government and defense attorneys, court personnel and others have refused to discuss the case, saying they were under orders not to talk.

Last week, Judge Singleton won an agreement from local newspaper editors not to print any reference to Marcello's underworld activities or alleged link with the Cosa Nostra until the jury was selected and sequestered.

AFTER REMOVING the jury, the judge gave Neff a tongue-lashing, as Marcello sat impassively watching.

Neff apologized. He said he had not known Collins would volunteer the remark and that he merely intended to clear up matters the defense had raised—allegations that Collins had made light of the assault charge to Maroun and other Marcello associates.

"I told you not to go into this subject matter," the judge fired back. "I tried to cut you off. This is just as prejudicial here as in the newspapers. You know what the man is going to say."

Judge Singleton said he was "very concerned" about the comment, but felt the case "had gone too far" to grant a mistrial. He called the jurors back in and began instructing them to "disregard Mr. Collins' last statement."

At that point, the judge noticed another juror just entering the courtroom. "Another foulup," he said, in obvious pique.

"LET'S DON'T have that happen again, Mr. Marshal (Deputy George Saegert). I believe you can count," he said. The judge repeated his instructions to the panel and

then told Neff to "go on to another subject."

In other testimony yesterday, Collins, another FBI agent, a New Orleans police officer and a wire service photographer gave their accounts of the alleged assault.

Although differing on details of the incident and who—Marcello or his brother Joseph—was supposed to have said what obscenity—the witnesses agreed Marcello's "haymaker" or "roundhouse right" did not make contact with Collins.

The witnesses said Marcello's son, also named Joseph, met the brothers at the airport and the three men were surrounded by newsmen and photographers as they made their way through the lobby and outside onto a high auto ramp.

ONE OF THE brothers was said to have turned to newsmen and said, "You have enough of your — pictures." The comment caused newsmen to drop back and Collins to step forward to the side of the other agent, the witnesses said.

"I'm the boss down here. Are you looking for some — trouble?" Collins quoted Marcello as saying. He said he replied, "I can handle trouble."

Collins said Marcello thrust his left hand out "in a jabbing motion" to the agent's shoulder until Joseph Mar-

cello grabbed his brother's left arm.

Then, Collins said, Marcello brought up his right arm, "in what I call a haymaker" and was again restrained by his brother. Marcello's brother and son pulled Marcello back and led him off to their car, he said.

UNDER CROSSEXAMINATION by Wasserman, the six-foot, one-inch, 185-pound Collins said he had "enough confidence" in his ability to ward off a blow from the five-two Marcello.

"Were you afraid he'd overcome you?" Wasserman asked. "All I know is, I was on that railing (a low rail separating him from a 30-foot drop to concrete below) and I wanted off," Collins said.

William Patrick Nolan, New Orleans police officer, testified briefly yesterday and again today. Nolan said he observed part of the incident from about 15 feet away.

His view, he said, was obstructed partially by newsmen.

HE DID SAY he saw Marcello jab at Collins with his left hand but said he did not see what other witnesses have described as a "roundhouse right."

Nolan testified that he was assigned to go to the airport and observe Marcello. After the incident, Nolan said, he followed Marcello to a residence on Clifford dr.