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## Cleveland's Untouchable

ON THE NIGHT of April 20, 1959, a program series called "Desilu Playhouse" dramatized a "Gang Busters" type of story called "The Untouchables," and America suddenly had a new television hero. He was a government law enforcement agent named Eliot Ness.

It was a good name for a television character; short, euphonious, and rough-hewn in its honesty. Better still, it was a real name and it carried a reputation that could stand alone without the props usually called for from the TV writers. Eliot Ness had been a real man, and if the characterization spun on the tube by actor Robert Stack did not really resemble the original, it is hardly surprising. Copies seldom do, especially in Hollywood.

Out of the two-part dramatization on "Desilu Playhouse" grew a weekly hour-long program series that became the most popular show on the air. The American television audience embraced Eliot Ness, shrugged off the commercials that wreathed over, through, and around his smoking revolver, and relived zestfully the turbulent confrontations of racketeers and lawmen during Prohibition years in Chicago.

The basis of the television series was a book called *The Untouchables*, an autobiographical account in which Ness had the able assistance of a veteran wire service reporter, Oscar Fraley of United Press.

But the book's center core of hard fact was destined to be covered with layer upon layer of fiction and fantasy as the TV scriptwriters labored through the ensuing years to meet the demands of the drawn-out series, and in time the truth was lost in the world of make-believe, and the identity of Eliot Ness came close to being indistinguishable from it.

Chicago was home to Eliot Ness; his birthplace in 1903 and the scene of his most publicized triumphs. But while the story of his conflict with the Capone syndicate was dramatic and flamboyant—including an episode in which he and his men drove a truck through the locked doors of a gangster-operated brewery—this was but the opening chapter in the Ness story. The locale shifted to Cleveland in August 1934, when the celebrated young representative of the "new breed" among law

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## CLEVELAND'S UNTOUCHABLE

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enforcement officers was transferred there as head of the enforcement division of the U. S. Treasury Department's alcohol tax unit.

The arrival of the glamorous young federal agent stirred the attention of some Clevelanders, but it was, in truth, little more than a municipal side glance. The city was too much caught in the toils of the deepening Depression and the many serious problems that plagued the community to get excited over the arrival of a young man to take up a government post that seemed remote and unimportant.

That situation would change dramatically some fifteen months later, in December 1935, when the newly elected reform mayor of Cleveland, Harold Hitz Burton, surprised everybody, including himself, by naming Eliot Ness the city's safety director—the youngest ever to be appointed. It was the signal for everybody in the metropolis to whirl and take a second look.

Most people—those, at least, who were counted among the law-abiding element—liked what they saw. Ness then was but thirty-two years old and the strenuous life he had lived had not yet rubbed the bloom from his cheeks. He was a six-footer, taller than he looked. He was slim and graceful, and he had a boyish face. He parted his hair slightly off-center and brushed it back, often applying a heavy layer of pomade to keep it plastered down in the style of the day. He did not present the formidable, bellicose appearance that Americans expect in their law enforcement officers.

The new safety director not only was an attractive man, physically, but the qualifications he brought to his new job as head of the city's law enforcement and fire-fighting departments could hardly be questioned. They stifled the usual political carping that follows mayoralty cabinet appointments. The naming of Ness was, in fact, a master stroke by the new mayor. He gave the administration a glamor and a glow that it sorely needed.

Mayor Burton himself was a personable gentleman, and one day he would make his mark on the national scene, first as a United States Senator from Ohio, later as a justice of the U. S. Supreme Court. But he was no extrovert showman. He had run for office as an independent Republican, and the voters who had supported his candidacy were encouraged by his action in choosing a safety director who was a professional law enforcement official and removed from the muddy main currents of politics.

Ness was a figure to command attention in every way, and an era which employed loose standards for public officials applauded his background, which included a degree from the University of Chicago, where he had been graduated in 1925. His major fields of study had been commerce, law, and political science.

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The newspapers all nodded their editorial approval. The *Plain Dealer* said on December 12, 1935:

"... If any man knows the inside of the crime situation here, his name is Ness.

"The mere announcement of his selection and acceptance is worth a squadron of police in the effect it will have on the underworld's peace of mind. Racketeers know Ness either by contact or by reputation. They know that he knows. For nine years he has waged relentless war on them for violations of federal law. For him the war goes on, now to be directed from City Hall.

"It is said of Director Ness that he and his agents have smashed a still a day in this district in the federal offensive against illicit liquor. They have brought hundreds under federal charges and seen many put behind prison bars. It was Ness who broke up Al Capone's beer empire, paving the way for Scarface's commitment to Alcatraz . . ."

The editorial writer was right. Cleveland's considerable underworld population stirred nervously when the news about Ness was published. They were not alone. A perceptible undercurrent of fear also passed through the ranks of the Police Department. There had been a marked decline in the standards of the police force that Fred Kohler once had whipped together into one of the nation's finest. All the signs of decay and corruption that had made the old Teuton bristle with rage when he had taken charge years before were everywhere to be seen once again. Policemen had grown careless of their appearance, and it wasn't unusual to see patrolmen walking their beat in unbuttoned uniform coats, unpressed trousers, and dusty shoes. Nor were the men in blue above hoisting an occasional stein of lager while they were on duty. Worse than the infractions in dress and manner was the ineffectual, casual system of law enforcement. It was obvious even to casual students of municipal government that the breakdown in the police power was a serious one and that its inevitable result was lawlessness.

Ness spelled out the situation that prevailed in the Cleveland underworld only a month after he took his oath of office in the Burton cabinet when he addressed the Cleveland Advertising Club. If the members expected to hear some dramatic reminiscences of Ness's encounters with the Capone gang, they were disappointed. Ness talked about Cleveland crime and he laid some startling facts on the line.

The gambling element in Cleveland, he said, was raking in a weekly take of about two hundred thousand dollars. The numbers policy racket alone was yielding some one hundred thousand dollars every week to the operators. Ness reviewed the financial figures in the quiet, disapproving voice of a college professor.

"One of the major problems which the Police Department faces to-

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day," he pointed out, "arises from the fact there was a large influx of potential criminals from other cities before Mayor Burton took office. They came here because they knew the rackets were flourishing and because they expected to get jobs. But they found the rackets were all filled up. They had to get some other source of income. A large number of them, then, turned to robberies, safe cracking, extortion . . ."

The policy racket alone had been yielding one hundred thousand dollars a week. Of that amount, Ness said, approximately forty thousand dollars was going to gangsters.

Ness himself had a tolerant attitude toward gambling, but he was a realist, not a reformer, and he knew that the job of cleaning up a city like Cleveland was defeated at the outset if gambling were permitted.

Ness' words were carefully measured by the formidable combine of gamblers who were securely entrenched in the Greater Cleveland area. The leading gambling casino was the Mounds Club in Lake County, some thirty-five miles from the heart of the city, but less than half that distance from the wealthy eastern suburbs like Gates Mills and Shaker Heights. The other leading gambling houses were the Thomas Club and the Harvard Club. All three spots catered to their customers openly and with complete indifference to the illegal nature of their position. Director Ness had every right to wonder about his Police Department.

The inevitable head-on collision between Ness and the gambling forces occurred quickly and dramatically on the night of January 10, 1936, less than a month after Ness first took office.

Ness was attending a meeting of the City Council that night when an aide beckoned him to take a telephone call in his office. The call was an urgent plea for help from County Prosecutor Frank T. Cullitan, an honest and courageous official who enjoyed the respect of the new safety director despite the difference in their party labels. Cullitan was a Democrat; Ness represented a Republican administration.

Cullitan said he was telephoning from a booth in Newburgh Heights near the notorious Harvard Club run by James ("Shimmy") Patton, Arthur Hebebrand, and Dan Gallagher. The prosecutor and a wrecking crew numbering twenty special constables had attempted to enter the club, but despite their warrants they were refused admission by Patton and a bunch of gunmen.

"They're threatening to open fire if we come inside the steel barriers," the county prosecutor told Ness. "We need help!"

Ness was placed in a delicate position by Cullitan's appeal. As safety director of Cleveland, he had no authority outside the city limits, which Newburgh Heights assuredly was. He was new in his post, untried and unproven and very young. A lot of Clevelanders, skeptical of his ability

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and inclined to dismiss his Chicago achievements as a newspaper publicity buildup, confidently waited for him to expose himself through one or two major blunders.

"I'll be there," Ness assured Cullitan. "I'll come as a private citizen and I'll ask some policemen to go with me as volunteers. Hold everything!"

After sending out a call for volunteers among members of the Cleveland Police Department, Ness called the sheriff of Cuyahoga County, a picturesque, white-maned character named John L. ("Honest John") Sulzmann. Sulzmann, an orator in the wordiest political tradition, was an outstanding advocate of the home-rule policy and had taken a firm hands-off position toward all the communities of the county.

Sulzmann was not in his office. His telephone was answered by Chief Jailer William Murphy.

"Prosecutor Cullitan is at the Harvard Club with several of his staff and their lives are endangered," said Ness. "As a citizen, I am calling on you and the sheriff to send deputies out there to protect the prosecutor."

"We can't send men out there without a call from the mayor of Newburgh," said Murphy.

"Will you go out or won't you?" demanded Ness.

"I'll have to call the sheriff and I'll call you back," Murphy replied.

"To hell with this calling back," growled Ness. "I'll wait on the phone." There was momentary silence and then Murphy's voice said: "No. We won't go out there."

Ness immediately swung into action. By 10:30 P.M. he arrived at the Harvard Club with his volunteers. Eyewitnesses at the scene compared the arrival of Ness and his men with the appearance of the U.S. cavalry at the scene of an Indian ambush. The Ness forces included twenty-nine patrolmen, ten motorcycle cops, and four plainclothesmen. All were armed with sawed-off shotguns, tear gas guns, rifles, pistols, and billyclubs.

The reinforcements must have looked impressive to the gamblers inside. Even Cullitan blanched at the sight of so much firepower and the grim looks on the faces of Ness and his men.

"I don't want any bloodshed," said the prosecutor.

Ness nodded, walked directly to the steel door of the club, and addressed a face at the peephole:

"I'm Eliot Ness. I'm coming in with some warrants."

After several long minutes of silence and inaction, the heavy door swung open to admit Ness, Cullitan, and their men.

This peaceful admission was something of an anticlimax to the tense hours of siege. The only flurry of action inside the club occurred when a Cleveland Press photographer, the late Byron Filkins, who was about

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five feet tall, was pushed from a chair by a gambler who did not want his picture taken. Big Webb Seeley of the rival *Cleveland News*, roaring with indignation at the mishandling of Shorty Filkins, promptly laid a mighty haymaker on the gambler's jaw, stretching him across a crap table.

Ness learned later that one of the nation's most wanted gangsters, Alvin Karpis, had been in the Harvard Club that night, but had slipped out of the law's net during the hours-long standoff that had preceded the safety director's arrival.

That did not dim the glory of the conquest. It was a victory of the first magnitude for law and order; a tremendously effective opener for Ness' career as Cleveland's chief law enforcement officer. It was an incident that deserved a place alongside his dramatic crash-through of the gates of the Capone brewery.

Clevelanders, most of whom had grown cynical and weary during the administration of Mayor Harry L. Davis immediately preceding the Burton election, blinked in surprise and pleasure over the setback administered to the gambling forces. All of a sudden, the contest between law and the lawbreaker, the good guys and the bad guys, had come alive. All of a sudden the issue was in doubt and Eliot Ness was the town hero. His timing was terrific. The city seldom had needed a hero so badly.

In that mid-Depression period, idealism had taken a terrible pounding from the grim facts of day-to-day existence, such as it was. The city's old standards of morality, deeply rooted in the heritage of the New England past and the conservatism of the thousands of central Europeans who had taken up a new life in Cleveland, had collapsed as badly and as dramatically as the stock market, the banks, and the general economy. The heart of the city was a depressing reflection of the times. Panhandlers and prostitutes were out in such numbers they jostled pedestrians right off the sidewalks; some used bookstores openly peddled pornographic literature, and the entertainment level in some of the night clubs that sprang up all over the downtown area following Prohibition's repeal was almost Saturnalian.

It was a time not so gay as it was hysterical and abandoned—except on the hastily filled-in lakefront where for two years, 1936 and 1937, the Great Lakes Exposition gave the city and its visitors—seven million in all—a kind of downtown Coney Island and miniature world's fair jumbled together. Cleveland loved the Great Lakes Exposition because it was the most marvelous diversion offered them throughout the long years of the Depression. Even the jobless could scrape up enough dimes and quarters occasionally to take in the expo and admire its many shows, including one called the Aquacade, that the young Billy Rose had put together with Esther Williams as star.

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Next to the exposition, Eliot Ness was the most interesting distraction of the time. He had announced, in a flat, businesslike voice that he was out to get the crooked cops, the numbers operators, the vice rings, and even to reduce the appalling number of traffic fatalities. And Clevelanders who had seen other reform movements go down to defeat chuckled and watched closely to see how Mayer Burton's baby-faced safety director would fare.

They discovered quickly that his approach to crime was about as emotional as an accountant's approach to double-entry bookkeeping; that he was activated more by practical considerations than moral outrage.

"It is debatable whether gambling is morally wrong," he said, "but from the policing standpoint you have an entirely different picture. I am inclined to be liberal in my views of amusements and I do not want to intrude my opinions on others, but as a safety director I must recognize everything which contributes to a lawless situation. By that, I mean major crime.

"Gambling brings into financial power citizens recognized as law violators. They collect large sums of money which must be distributed among many persons, some of them public officials, perhaps.

"We find the lawbreakers growing in power. Gradually, with use of their money, they get inroads into the systems of public protection, perhaps a safety department, perhaps the courts. Other lawbreakers gather under their protection, and you have a situation in which the policeman on the beat, and perhaps his captain, doesn't know what laws to enforce, what persons to arrest, and what persons to avoid. Since his advancement depends on his making no mistakes, he becomes cautious and gradually we find ourselves a city growing more desirable to lawbreakers. That stuff travels.

"A policeman must be able to do police work without having to find out the family background, the connections, of every individual he comes across in his work. His job is complicated enough without that."

Ness harked back to his Chicago days to recall the time he tapped a telephone conversation from the headquarters of Al Capone's brother, Ralph, in a Chicago suburb, and learned that Capone actually was in league with two competing candidates for office. One of the candidates was an out-and-out Capone-sponsored man; the other one was backed by the forces of reform. Capone had both of them in his hip pocket and could not lose.

"In any city where corruption continues," said Ness, knowingly, "it follows that some officials are playing with the underworld. If town officials are committed to a program of 'protection,' police work becomes exceedingly difficult, and the officer on the beat, being discouraged from his duty, decides it is best to see as little crime as possible."

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Cleveland's policemen were among Ness' most attentive listeners. He was an unknown quantity, for all his reputation and his heroics in the Harvard Club raid. He didn't fit any known pattern of the day. One thing about him they learned quickly: He wouldn't put up with sloppy, out-of-shape cops.

In the Ness book, a good police officer was defined as one who could qualify as:

- (1) A marksman
- (2) A boxer
- (3) A wrestler
- (4) A sprinter
- (5) A diplomat
- (6) A memory expert
- (7) An authority on many subjects

Beyond that seven-point program the policeman presumably was on his own.

The new safety director's first move was not to launch a drive against the city's leading criminals, but to investigate the members of his own Police Department. Two weeks after taking office, he transferred 122 cops to new posts in the biggest shakeup in years. Meanwhile, he was putting together a new band of "untouchables," a group of handpicked policemen to help him in his undercover investigation of the force. No holds were barred, and Ness was able to employ many of the same techniques and devices he had used in his fight against the Capone mob in Chicago—wire taps, investigating bank accounts, hiring stool pigeons, and any other helpful means.

The Cleveland situation was so bad, he learned, that some policemen actually were serving as "enforcers" for the gangsters enjoying monopolistic control of certain rackets, and that some of the police had been known to turn down protection money from independent racketeers, forcing them out of business with frequent raids that drew public applause.

Ten months after he took office, Ness presented a startling hundred-page report on the Cleveland crime situation to County Prosecutor Cullitan. He also presented Cullitan with the testimony of sixty-six witnesses who had indicated their willingness to blab all to the Grand Jury. The report was the work of his new Untouchables and his own investigative perseverance. He had spent one hundred consecutive summer nights following the trail of police crookedness through some of the city's worst dives and some of the metropolitan area's nicest suburbs. He had talked with bums and degenerates and respectable community leaders on the same night about the same suspect.

His investigations had not been without their amusing moments, one

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## CLEVELAND'S UNTOUCHABLE

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of which arrived the night Ness and a reporter walked into a saloon at East 82nd Street and Kosciuszko Avenue. As they walked through the door, a uniformed cop dropped his drink on the bar and dove for the rear of the cafe, racing up a stairway to a short landing. The door at the landing was locked, so the panicky policeman pressed himself flat against the door, hoping he would not be noticed.

Ness, as a matter of fact, had not given any sign that he had seen the policeman. He went directly to the bartender and asked to see the proprietor. The bartender told him the proprietor wouldn't be around until a later hour.

"Who shall I tell him was here?" asked the bartender.

"My name is Ness," said the safety director.

One of the customers at the bar let out a loud, derisive laugh.

"Oh, yeah? I suppose you're the safety director, too!"

"That's right," said Ness.

The customer nudged his drinking partners.

"Listen, buddy," he said to Ness, losing his smile, "go peddle that stuff somewhere else. It just happens the director's a personal friend of mine."

"I see," said Ness. "O.K., buddy, but if you've got any doubts about who I am, just ask that officer who's hiding up there on the landing!"

He turned and walked out of the saloon, the reporter in his wake, leaving behind a bar full of nervous customers and a very thoughtful policeman.

On the basis of the Ness-led investigation, the Grand Jury, under Mrs. Lucia McBride, returned bribery indictments against a deputy police inspector, two veteran captains, two lieutenants, a sergeant, and three patrolmen. All were convicted. The officers received Ohio Penitentiary terms of two to twenty years. The patrolmen received lighter sentences.

Before he stepped down from his job as safety director in May 1942, Ness sent another half-dozen policemen to prison and brought about the resignations of two hundred others. He moved carefully but relentlessly in pressing his campaign against rogue cops, winning the praise of the chief justice of the Ohio Supreme Court, Carl V. Weygant, for "the outstanding completeness and care with which he assembled evidence against the police officers."

Cleveland had been hopeful, but understandably skeptical, about the apple-cheeked young safety director in the beginning, but his quiet ferocity in showing the racketeers and black sheep policemen who was boss convinced everybody that the law finally had a real champion on its side. Even his worst enemies conceded that Eliot Ness was, in a quiet way, one of the bravest men they ever had known.

"Director Ness," wrote Alvin ("Bud") Silverman of the *Plain Dealer*,

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a veteran and respected reporter of City Hall affairs, "is as devoid of fear as anyone who ever lived."

Silverman conceded, at the same time, that the imperfections that are characteristic of human clay were easily discernible in Ness. This was no saintly paragon.

"His social habits," Silverman wrote, "which included living in a Lakewood boathouse and entertaining in a most sophisticated manner, had tongues wagging most of the time. Also, he was too handsome and self-centered to be popular with the great bulk of hard-working conservative Clevelanders."

He was, on the other hand, tremendously popular with the working newspapermen in town. Not only did he provide colorful, exciting copy, but he was entirely different from the usual distant, reticent type of public official. He was friendly and trusting, and his trust seldom was violated. Furthermore, he was a young man who liked to have fun, and he found he could have fun in the company of the newsmen his own age. One of his best friends and confidants during his term as safety director was Ralph Kelly, political editor of the *Plain Dealer*.

When it seemed to Ness that the Police Department had rounded into trustworthy shape, he directed his attack toward other targets. One of these was racketeering practices of labor union officials. Ness put four union chiefs into the penitentiary after a short, fierce campaign, and there was a noticeable turn for the better in the behavior of other union firebrands.

Cleveland's traffic safety record at the time Ness took office was one of the worst in the nation. It was open season on pedestrians all the year round, but the Ness crusade against traffic manslaughter and injuries brought gratifying results, with Cleveland winning the National Safety Council's first prize for reduction in deaths and accidents twice during his administration.

The safety director showed some of his insight into mass psychology when he tricked up all the Police Department's vehicles in a garish red-white-and-blue paint combination. There was some ridicule of the bright colors by aesthetes who like their police cars to come on more quietly, but the Ness motivation was more than a whim. He reasoned that the police vehicles would be more noticeable when decked out in the bright paint combination and that the public would be far more aware of their presence on the streets. And that's the way the experiment worked out. It suddenly seemed to Clevelanders that the avenues were jammed with police cars where none had been visible before.

Now the outside world was beginning to tumble to the fact that something unusual in the area of law enforcement was taking place

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in Cleveland, and Ness, his record as safety director studded with one spectacular success after another, began to receive national publicity similar to the press notices he had gotten in Chicago when he was fighting the Capone mob.

As the excitement of the challenge began to fade away and the tedium of routine began to set in, there were some happenings that tended to take the high glitter off the shiny Ness badge. In the early part of 1939, he was divorced from his first wife, Edna Staley Ness (they had no children), and later that year—in October—he and Miss Evaline MacAndrew, a fashion illustrator for a Cleveland department store, were married in Greenup, Kentucky. She, like Ness, was a native of Chicago, and their friendship had begun in that city years before.

It was in March 1942 that Ness' career received its most serious setback, opening the way to his departure from the cabinet of Mayor Frank J. Lausche. One dark morning, at four forty-five, Ness' car skidded and slammed into an oncoming vehicle on the West Shoreway.

The safety director, his wife, and two friends had been drinking in the Vogue Room of the Hollenden Hotel.

The police report on the accident did not identify Ness as the driver of the car causing the accident, but it did list his license number, EN-1, a very familiar plate to a lot of Clevelanders—and especially to policemen.

The patrolman who had been assigned to the accident said in his report that the safety director had left the scene of the accident and that while Ness had called the hospital where the driver of the other car had been taken, he had refused to identify himself over the telephone.

Sensational headlines blackened the front pages of the afternoon newspapers. The hero had been toppled from his pedestal! Sir Galahad a hit-skip driver? The city was too far gone on Ness to believe the bad tidings, and he, indeed, did have an explanation to offer. It was a candid, reasonable explanation, even if it did present him in the cold light of a fallible human instead of a superman.

"Mrs. Ness had worked until midnight," the director said, "and after calling her, I took her to dinner at the Hollenden. We met two friends and they joined us at our table. I had several drinks during dinner.

"Then we went to the hotel room of one of my friends and chatted with him about his farm and other matters for a couple of hours. I had nothing to drink in the room. When we left the hotel we started for home. It was very slippery and the thing just happened like that . . ."

He snapped his fingers to illustrate the suddenness of the accident.

"My first thought was for my wife because I thought she was the

Condon, George E.. Cleveland : the best kept secret.

New York, NY, USA: Doubleday, 1967. p 253.

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most seriously injured. She had had the wind knocked out of her. After she regained consciousness, I got out of my car and went over to the other driver and told him who I was." The other driver was Robert Sims, twenty-one, of East Cleveland.

Ness then explained that he had returned to his automobile, driven it down the road a short distance, and then changed his mind, returning to the scene of the accident. But Sims was gone, taken to the hospital by another motorist.

"I had told Mr. Sims that we would follow him to the hospital," said Ness, "but Mrs. Ness said she was feeling better and would rather go home. After I got home I immediately called the hospital and talked to someone. I didn't know who he was.

"The person at the other end of the wire [Patrolman Joseph Koneval] asked who was talking and I said the other party [Mr. Sims] knew who I was. I wanted to make sure that the injured man was all right, but I didn't identify myself. I said that I would have my insurance adjusters on the job in the morning. The party very willingly gave me the name and address I wanted. At no time did he say he was a policeman."

Ness' statement about volunteering his assistance to the injured driver and identifying himself was confirmed by Sims under questioning by police and reporters.

"It was," said Ness, "a very unfortunate thing all the way through, but there was no attempt at evasion in any particular."

The accident was a two-day sensation, but it did deep injury to the public image that Ness had enjoyed in Cleveland. The hero worship never went quite so deeply, or so fervently, after that.

The so-called "hit-skip" accident came at an unfortunate time. Various civic elements that had been smarting under Ness' vigorous administration had been trying to undermine his position. Ness had made himself vulnerable to attack by assuming, in 1940, a responsibility as consultant and adviser of the federal Social Protection Program, a campaign to curb social diseases. He became director of the national program before Pearl Harbor and his trips to Washington and away from his safety director's desk became more frequent and prolonged. Ness was a holdover from the two preceding Republican administrations and the new mayor, Lausche, was not enthusiastic about retaining him, but he was fearful of public reaction to the dismissal of a hero. Some labor leaders protested his retention in office, as did some of the spokesmen in the police and fire departments, the labor unions, and Democratic Party headquarters. Each group had a grievance to settle. The county chairman of the Democratic Party, Ray T. Miller, a former mayor, offered dramatically to go to J. Edgar Hoover and get "a real G-man" if Lausche would fire Ness.

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At the height of the pressure campaign to oust Ness came the shore-way accident and the subsequent bad press for the safety director. Less than two months later Eliot Ness resigned from the cabinet of Frank J. Lausche to become the full-time administrator of the federal war-time program against social diseases. His career thereafter, private and public, was a checkerboard that challenges analysis. While still in his federal job in 1944, Ness was invited by the heirs of Ralph Rex of Cleveland to represent them in Diebold, Inc., of Canton, Ohio. He was elected to the board and for a while served as chairman until ownership of the company changed hands. He later joined James M. Landis, former dean of the Harvard Law School, and Dan T. Moore, former Ohio securities commissioner and brother-in-law of syndicated columnist Drew Pearson, in a newly formed export trade company, Middle East Company. It, too, was a short-lived association.

It was while he was serving as chairman of Diebold in October 1945 that Ness got back into the public prints with another burst of unfavorable publicity. On October 9 he had initiated a divorce action against his second wife, Mrs. Evaline Ness of New York, on grounds of gross neglect and extreme cruelty. The petition somehow was kept from the reporters covering the courthouse, and the customary notice of the action was not printed in the *Daily Legal News*.

The petition, numbered 555772, could not be found in the files of the county clerk's office, although there was a record that the fees totaling eleven dollars had been paid. Aides said the petition had gone to Common Pleas Judge Frank J. Merrick after last-minute filing, but reporters were unable to catch up to the elusive petition.

When the county clerk, Leonard F. Fuerst, was asked where the petition had disappeared, he said, simply: "As far as we're concerned, it was filed properly and indexed."

"Where is it, then?" asked a reporter.

"Isn't it in the files?" he countered. "Nothing is ever hidden from anybody."

The divorce was granted, at any rate, and less than two months later Ness married for the third time. His new wife was the former Mrs. Hugh Seaver, a sculptress.

It was about this time that Ness issued a significant statement to the press, hinting at his return to the political arena.

"My business affairs are in such excellent shape," he said, "that I can now do as a chairman of the board should—direct policy." His allusion was to his post at the Diebold company. "I am so situated financially that I do not have to worry about a livelihood. I have some ideas about public service—and I want to try them."

The following year, 1947, Eliot Ness was the standard bearer of the Republican Party in the Cleveland mayoralty contest. His opponent

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was Thomas A. Burke, one of the most popular mayors in Cleveland's history. Burke was seeking his second term in office.

Throughout his career as safety director of the city, Ness had enjoyed high favor among the leading industrialists of the metropolitan area, and now they rallied around with a campaign treasury estimated at \$150,000.

Conversely, organized labor regarded Ness as their enemy, and union support went to Mayor Burke.

It wasn't much of a contest. Ness was a political amateur lacking the basic tools. He was a mediocre speaker and he disliked crowds. All he had going for him was a faded reputation as a hero and a lot of courage. Time after time, rally after rally, he described the Burke administration of being "tired, weary, worn and confused," but it looked to perceptive political observers as if he, rather than Tom Burke, were the one who was tired, weary, worn, and confused.

Mayor Burke beat Ness handily, 168,412 votes to 85,990—a 2-to-1 landslide that buried all of the former safety director's political ambitions and made him a dead issue in Cleveland city government.

"We all liked Eliot," says John Patrick Butler, who had been executive secretary to Mayor Burke, "and we all admired him as an honest, thoroughly competent expert in the field of law enforcement. There never was anybody like him in Cleveland. He really captured the imagination of the public in his early years, and he was given a hero worship unlike that given any city official within my recollection.

"But Eliot missed the boat. He should have run for mayor in 1941, against Frank Lausche, who was then a comparative unknown with a name hard to pronounce. He could have beat Lausche then because at that time Ness was the most famous man in the city and the most admired."

Ness's absence from the city and public attention for five years during the war and immediately afterward cost him too much ground. And his two divorces and three marriages had to hurt him in conservative, strongly Catholic Cleveland. Following his defeat in the mayoralty election, Ness dropped out of sight completely for a while.

"Eliot had run out of gas," says one of his old colleagues of the glamor days. "He was still a fairly young man, but he simply ran out of gas. He didn't know which way to turn."

About a year after the election, he appeared in the office of one of the men who had been hired to publicize his campaign for mayor. He looked tired and dispirited. He told his former press agent that he was down on his luck and needed a job.

"I'd regard it as a favor if you could put me on the payroll for about sixty dollars a week," he is reported to have said.

Shortly thereafter he left Cleveland again and this time it was

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goodbye. Reports drifted into the newspaper gossip columns once in a while of his business activities elsewhere, but they never were specific or easily verifiable. Then, on May 16, 1957, the press associations routinely reported his death, at age fifty-four, in the little town of Coudersport, Pennsylvania. The stories said he had lived there for about a year, and that he had been in business there.

According to records on file at the Potter County Orphans Court in Coudersport, the former crime fighter had died intestate and insolvent. An accounting of his estate showed total assets of \$992.50 and total liabilities of \$9001.97.

Among his assets was listed two hundred dollars as the value of Ness' royalty contract with the New York publishing house of Julian Messner, Inc., for the book which Ness had written with the help of Oscar Fraley of the United Press. Ness had seen the galley proofs of the book before he suffered his fatal heart attack. The book was *The Untouchables*, and Ness undoubtedly was hopeful that it would sell enough copies to help him out of his financial plight. He could not have dreamed that it would be the vehicle that would make him an international celebrity, through television.

When the news of his death reached Cleveland, somebody remembered a tribute to his accomplishments written at the time that he resigned his safety director's post and left for Washington to tackle his federal assignment. The tribute had been written by Clayton Fritchey, one of his closest friends and an ace reporter for the *Cleveland Press*.

Fritchey wrote that, because of Ness:

"Policemen no longer have to tip their hats when they pass a gangster on the street . . .

"Labor racketeers no longer parade down Euclid Avenue in limousines bearing placards deriding the public and law enforcement in general . . .

"Motorists have been taught and tamed into killing only about half as many people as they used to . . ."

More important than any of his spectacular achievements as a law enforcement officer was this: Eliot Ness was a man who had given the honest people of Cleveland somebody brave and noble to admire. He renewed their faith in the old American tradition that when things look blackest, a hero will ride into town out of nowhere to save the situation.

Which he did.

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