

AN EMPIRE BUILT ON PAPER

FOSHAY'S SECOND TRIAL

& APPEALS 1932-1934

January 11, 1932:

The second trial began. Attorney Brill continued to represent Foshay and Henley, despite the \$8,000 they owed him. Judge Molyneaux again presided. One juror was excused 48 hours after the trial began because of a false rumor that he had been employed in Brill's office the previous summer. Both sides agreed to continue with eleven jurors. Special Prosecutor Horowitz opened the government's case and again the government presented hundreds of exhibits.



Jury for the second trial of Foshay and Henley, 1933.

Photo: Minnesota Historical Society



Wilbur Foshay (center) seated with his attorneys, Josiah Brill (left), and Samuel Maslon (right), 1933. Note the photographer to the far, upper right.

Photo: Minnesota Historical Society

February, 1932: In contrast to the first trial, both Foshay and Henley testified in their own defense. The defense also called character witnesses to testify that the defendants had no intent to defraud anyone.

March 10, 1932: Foshay took the stand. His hair had turned white during the past year. He concluded his testimony with a question from Brill:

“Did you believe that the investors would make substantial returns on their investments?”
Foshay answered “I did.”

March 16, 1932: The case went to the jury.

March 21, 1932: Foshay and Henley were found guilty on four of the 17 counts. Judge Molyneaux sentenced them to 15 years in Leavenworth Prison and fined each \$1,000. They were given a stay of sentence for two years, pending appeals.

Because they were out of money, Henley wrote the appeal brief, which was approved by attorney Brill. The Eighth Circuit Court of Appeals affirmed the judgment of the District Court. (*Foshay v. U.S.*, 68 F.2d 205)
The U.S. Supreme Court denied their application for a writ of certiorari. (*Foshay v. U.S.*, 54 S.Ct. 531)

May 5, 1934: Foshay and Henley left Ramsey County jail for Leavenworth prison. The press reported that Foshay and Henley were unshackled, but carefully guarded by U.S. Marshals, and that Foshay appeared to be in good spirits and joking with the guards during their transit to prison.

Foshay and Henley, prisoners at Leavenworth prison working to obtain a pardon, 1934.

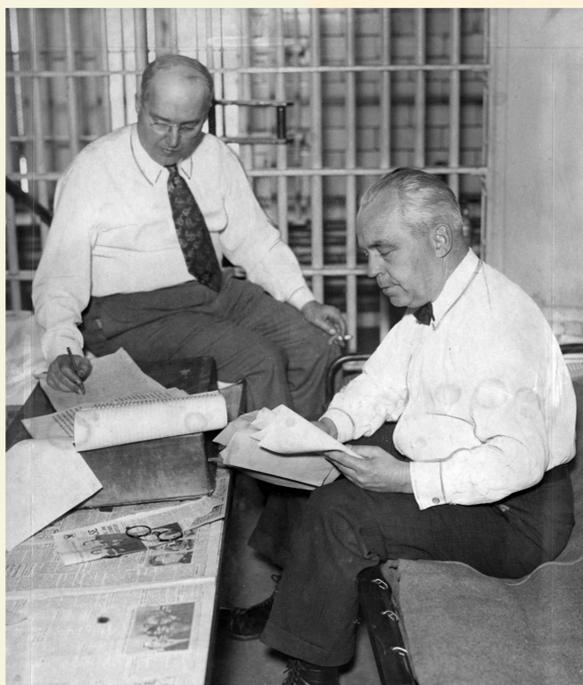


Photo: Minnesota Historical Society

| | |
|----------------------------------|--|
| RECEIVED May 5, 1934 | DESCRIPTION: |
| FROM D-Minn-Minneapolis | AGE 52 BIRTHDATE -- |
| CRIME P.O. -Mails to Defraud | HEIGHT 5'4 1/2" WEIGHT 167" BUILD St. |
| MILITARY OR CIVIL Civil | HAIR Dk. Ch. Eyes Rec. BROWN. Dk. Blu |
| SENTENCE 15 Yrs. -- Mos. -- Days | COMP. M CHN Reg. End |
| DATE OF SENTENCE Mar. 21, 1932 | MARKS AND SCARS |
| BIRTHPLACE New York | Two faint obl. scars 3" each 1st joint |
| RELIGION Episcopalian | Left thumb near. For scar 1" in left eye |
| EDUCATION HS 4 | below. |
| OCCUPATION Quarry Operator | |
| MARRIED Yes CHILDREN 2 | |
| RESIDENCE Minneapolis Minn. | |
| HABITS Smokes Drinks | |



... a prisoner in the United States Penitentiary, Leavenworth, Kansas, do as his authorized representative, to open and examine all letters, papers and notes to my address so long as I am a prisoner in said Penitentiary.

Wilbur Foshay
Signature of Prisoner.

Courtesy of National Archives and Record Administration
Prisoner card for Foshay.

First unsuccessful auction of the Foshay Tower held in the Minneapolis City Hall, 1930.

Judge Sanborn authorized the auction of the Tower saying he would only approve a sale if the amount offered covered all liens, claims and mortgages against it. It took 27 auctions until the building was finally sold to a Chicago group in 1935.

Foshay and Henley left Leavenworth in 1937 when President Franklin Roosevelt commuted their sentences. Foshay was pardoned by President Harry Truman in 1947.

After working in other states, including managing a granite company in Colorado, Wilbur Foshay died in Minneapolis in 1957.

After Henley's release, he founded Minngas Company, headquartered in Tracey, Minnesota. One of his staunchest friends, and one of his investors, was his parole agent. Henley died in 1945.



Photo: Minnesota Historical Society

Why worry? It won't last. Nothing does.

Motto hanging over Foshay's desk.