

# SITTING AS COURT OF IMPEACHMENT

## JOURNAL OF THE SENATE

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Thursday, August 8, 1957

The Senate, sitting as a court for the trial of Article of Impeachment against the Honorable George E. Holt, Circuit Judge for the Eleventh Judicial Circuit of Florida, convened at 9:30 o'clock A. M., in accordance with the rule.

The Chief Justice presiding.

The Managers on the part of the House of Representatives, Honorable Thomas D. Beasley and Honorable Andrew J. Mus-selman, Jr., and their attorneys, Honorable William D. Hop-kins and Honorable Paul Johnson, appeared in the seats provided for them.

The respondent, the Honorable George E. Holt, with his counsel, Honorable Richard H. Hunt, Honorable William C. Pierce and Honorable Glenn E. Summers, appeared in the seats provided for them.

By direction of the Presiding Officer, the Secretary of the Senate called the roll and the following Senators answered to their names:

Adams	Carraway	Hair	Neblett
Beall	Clarke	Hodges	Pearce
Belser	Connor	Houghton	Pope
Bishop	Davis	Johns	Rawls
Boyd	Dickinson	Johnson	Shands
Brackin	Eaton	Kelly	Stenstrom
Branch	Edwards	Kicklitter	Stratton
Cabot	Gautier	Knight	
Carlton	Getzen	Morgan	

—34.

A quorum present.

CHIEF JUSTICE TERRELL: Senator Connor, will you pray?

SENATOR CONNOR: Our gracious Heavenly Father, we would ask that Thy spirit fall fresh on the Members of this Court and the distinguished Presiding Officer, the Chief Justice of the Supreme Court.

Give to all of us knowledge, wisdom, courage, faith and condition to do our duty to our great State, to this, the Senate of the State of Florida, and to this Respondent in this Court.

Give to us the power to overcome the influences that would sway us from doing the right in Thy sight.

May we seek truth, for Thou hast said, in Thy Holy Word, that truth will set you free.

We thank Thee for the blessings of life. Forgive, we pray, our sins, for we know we have done those things we should not have done, and we have left undone the things that we should have done.

Be with us in the further days of this trial, and may our actions be prompted by a spirit of justice, and we will be pleased to give unto Thee, Lord, all the honor, praise and glory.

In Christ's name, we pray. Amen.

CHIEF JUSTICE TERRELL: The Sergeant-at-Arms will make the proclamation.

THE SERGEANT-AT-ARMS: Hear ye! Hear ye! Hear ye!

All persons are commanded to keep silence, on pain of imprisonment, while the Senate of the State of Florida is sitting for the trial of Article of Impeachment exhibited by the House of Representatives against the Honorable George E. Holt, Circuit Judge of the Eleventh Judicial Circuit of Florida.

By unanimous consent, the reading of the Journal of the

proceedings of the Senate, sitting as a Court of Impeachment, for Wednesday, August 7, 1957, was dispensed with.

The Senate daily Journal of Wednesday, August 7, 1957, was corrected and as corrected was approved.

CHIEF JUSTICE TERRELL: You may proceed.

SENATOR DAVIS: Mr. Chief Justice - - -

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: - - - I'd like to move you, sir, that the Senate stand in informal recess for a period of fifteen minutes, and that the Rules Committee, together with attorneys for both sides, during that time, meet in the office of the President of the Senate.

CHIEF JUSTICE TERRELL: Will you permit me to make this announcement first, Senator Davis?

I just want to state that as I understand the motion that was adopted by the Court the last thing yesterday afternoon, all reference hereafter in this trial to the Grand Jury reports that we've discussed some here, is out, and there's no evidence to be taken on either side, or any reference made to those Grand Jury reports by counsel on either side.

As I have said to you gentlemen before, in my judgment, the decision and judgment of the Senate is the law of this case, and I take it that that was the expression of the Senate and the purpose of the Senate yesterday.

Now, you've heard the motion of Senator Davis, that the Court take a brief recess to give the Rules Committee an opportunity to take care of some matters.

All in favor of the motion, let it be known by saying "aye." Opposed, "no."

The "ayes" have it; the motion is adopted.

The Senate will be at ease for fifteen minutes.

Whereupon, the Senate stood at ease from 9:40 o'clock, a.m. until 9:55 o'clock a.m.

CHIEF JUSTICE TERRELL: Order in Court. The Chair declares a quorum present.

SENATOR DAVIS: Mr. Chief Justice - - -

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: - - - I'd like to make an announcement to the Senate.

The Rules Committee has been meeting with attorneys for both sides, with the idea of trying to come to some conclusion as to when we can wind up, or finish this trial.

I'd like to state that there's some doubt among the members of the Committee, and also members of attorneys. It's thought that there's a possibility of finishing up the testimony, maybe, Friday. It might run on over into Saturday morning.

The Rules Committee has suggested to both sides that they limit their argument, as far as possible, but we made it clearly understood that we were not trying to force either side to any specific or definite amount of time.

It's suggested that they try to confine the argument to two hours to the side; that would be four hours. Under the circumstances, there's some doubt as to whether we can finish Saturday. There's a possibility that we can finish Saturday sometime.

So, that's the situation, and it's up to the Senate, or will be up to the Senate, as to what you wish to do. If we can't finish it Saturday, why, that would throw us over, probably one day into next week. Now, that's the possibility, and we're trying to rush it as much as we can without hamstringing either side.

Now, we want to know what the desire of the Senate is with reference to adjourning tomorrow and coming back Monday, for maybe one or two days, or staying here and trying to finish up Saturday, and then, if we don't finish up Saturday, come back Monday anyhow, which we will probably have to do, for a short time.

Now, it's up to the Senate.

SENATOR PEARCE: Mr. Chief Justice - - -

CHIEF JUSTICE TERRELL: Senator Pearce.

SENATOR PEARCE: - - - would the Senator yield to a question? Senator Davis?

SENATOR DAVIS: Yes sir.

SENATOR PEARCE: Would it be possible, if it looks probable that maybe we could finish up Saturday, would it be possible to meet Saturday night and complete it without having to come back Monday?

SENATOR DAVIS: Senator, as far as the Rules Committee is concerned, all three of us live close to Tallahassee. We're not going to try to make this thing - - - cut it to suit our convenience. We feel that the Senate should be apprised of the facts, as we have been advised, and then I think it's up to the Senate to determine what they want to do.

SENATOR PEARCE: Then, would it be possible for us to then go ahead and meet, if necessary, tomorrow night, in a night session, so that we would complete on Saturday?

SENATOR DAVIS: I'll say anything is possible.

SENATOR PEARCE: Of course, that's up to the Senate.

SENATOR DAVIS: I don't know whether we'd get a quorum or not.

SENATOR PEARCE: I think you'd get a quorum all right, but - - -

SENATOR RAWLS: Mr. Chief Justice - - - will the Senator yield?

SENATOR DAVIS: Yes sir.

SENATOR RAWLS: Senator, couldn't we very probably make a better evaluation of the situation tomorrow, or tomorrow morning, without making a final decision at this time?

SENATOR DAVIS: Well, we probably could tomorrow. However, Senator, there are a number of the members of the Senate who would like to make their plans today if they're going to be held over Saturday, and it was merely with the idea of suiting the convenience of the members of the Senate.

SENATOR KICKLITER: Mr. Chief Justice . . . will the Senator yield for one question?

SENATOR DAVIS: Yes sir.

SENATOR KICKLITER: Senator, from your conference, does it look, as best you can determine, that it's equally possible that it might carry over till Monday, or during this week? One is equally as possible as the other?

SENATOR DAVIS: Senator, I think there's a possibility of winding up Saturday, sometime; I think that possibility might be fairly good.

However, there is a possibility, and without making any out-of-school statement or anything like that, one of the attorneys seems to think there's a possibility that we cannot finish Saturday, and it's therefore, a possibility that we'll have to come back Monday, whether we meet Saturday or adjourn Friday.

SENATOR KICKLITER: I move that we adjourn tomorrow.

(The motion was seconded from the floor.)

SENATOR GETZEN: What will the motion be? That we adjourn tomorrow at noon, regardless of whether - - -

SENATOR DICKINSON: Mr. Chief Justice - - -

CHIEF JUSTICE TERRELL: Senator Dickinson.

SENATOR DICKINSON: - - - Members of the Senate:

We're now on the last leg of this trial. We've all been away from our businesses, and everybody in this Senate wants to be and needs to be home, and if this Rules Committee and these lawyers think there's a good possibility of probably finishing it sometime Saturday, even if it is Saturday night, as Senator Pearce said, to my opinion, I would rather stay here and try to see it through, to see if we can't wind it up this week.

SENATOR GETZEN: Will the Senator yield?

SENATOR DICKINSON: I offer a substitute motion, Mr. Chief Justice, that we remain in session through Saturday.

SENATOR GETZEN: Senator, what assurance do you have that after we sit here all day Saturday, that we're not coming back here Monday? What's the difference between making your plans for Saturday and making them for Monday? You're liable to be here Monday too.

SENATOR DICKINSON: Well, I've been working on Saturday all my life.

SENATOR CABOT: Mr. Chief Justice - - -

CHIEF JUSTICE TERRELL: The Senator from Fort Lauderdale.

SENATOR CABOT: - - - I'd like to make the suggestion that we vote down all these motions and wait until this afternoon before we adjourn to try to evaluate where we stand at that time. It seems to me that if there is any possibility that we can finish this up Saturday, we should work a little longer hours and finish it Saturday, and I think that we would be in a much better position to evaluate that, as Senator Rawls has said, at a little later time.

CHIEF JUSTICE TERRELL: Senator Dickinson, what was your substitute motion again?

SENATOR DICKINSON: Mr. Chief Justice and Members of the Court, I think, in view of Senator Cabot's remarks, that we wait until this afternoon and see how things go along, that I'll withdraw my motion.

CHIEF JUSTICE TERRELL: Then, Senator Cabot, your motion is that we wait till - - -

SENATOR GETZEN: Mr. Chief Justice, I do likewise. I withdraw my motion in favor of his motion.

SENATOR DAVIS: Mr. Chief Justice, under the circumstances, I'll second Senator Cabot's motion and withdraw my motion.

CHIEF JUSTICE TERRELL: Your suggestion is that we wait till tomorrow to determine this question of adjournment?

SENATOR DAVIS: Yes sir.

CHIEF JUSTICE TERRELL: That will be the order, without any objection; so, the matter will go over till tomorrow.

I believe we had Mr. Brautigam on the stand here yesterday.

MR. SUMMERS: He'll be subject to cross, further cross.

CHIEF JUSTICE TERRELL: Call Mr. Brautigam.

MR. BEASLEY: Mr. Chief Justice, I would like to say, on behalf of the State, that we have no further business with this witness after the ruling of the Senate yesterday, because everything he testified to was discarded.

MR. HUNT: I'll ask him one question, if you please.

MR. BEASLEY: All right, sir.

Thereupon,

GEORGE A. BRAUTIGAM

resumed the stand and testified further as follows:

REDIRECT EXAMINATION

BY MR. HUNT:

Q Would you state whether or not, in your conscientious opinion, Judge Holt possesses the same high qualifications to hold his judicial office today that he possessed prior to April 30, 1956?

A Yes sir, he does.

MR. HUNT: That's all.

MR. HOPKINS: No further questions.

MR. HUNT: Thank you, Mr. Brautigam.

(Witness excused)

MR. HUNT: Will you call Judge Wiseheart, please? Judge Wiseheart.

Thereupon,

MARSHALL C. WISEHEART,

a witness called and duly sworn for and in behalf of the Respondent, was interrogated and testified as follows:

DIRECT EXAMINATION

BY MR. HUNT:

Q Will you please state your name?

A Marshall C. Wiseheart.

Q You are now the senior Judge of the Eleventh Judicial Circuit of Florida?

A I'm the presiding Judge.

Q That's the new word?

A Presiding Judge; that's the new word.

Q Under the new rules, you will continue as presiding Judge for what period of time?

A For a period of two years from July 1, 1957.

Q Judge Wiseheart, will you give the Senate a brief sketch of your professional and judicial history, in your own words?

A Well, I was educated in Georgetown University and National University Law School; graduate from National in 1927, and came to Florida in December of '27; passed the Bar in 1928, and practiced law from that time until 1943, when I was appointed Judge of the Circuit Court.

In the meantime, I've served two sessions in the State Legislature, as a Member of the House.

Q By whom were you appointed to the Circuit Court in 1943?

A Governor Holland.

Q When you ascended to the Bench in 1943, had Judge Holt been on there some two years?

A Approximately two years.

Q Had you known Judge Holt prior to that time?

A Yes, I knew him as a lawyer, and I served one session of the Legislature with him; so, I knew him better after 1941 than I did prior to that time.

Q How long have you known him over the years, Judge Wiseheart?

A Oh, since '29 or '30.

Q Have your professional and judicial contacts in relation with Judge Holt been frequent and rather of an intimate nature?

A We've been very close.

Q I believe, in the Judgeship set-up there on the Court,

for some time you served as his alternate, and he served as your alternate, is that not correct?

A That's correct.

Q Judge Wiseheart, I would like for you to state to the Senate, in your own language, the manner in which Judge Holt conducts his Court and dispatches the business of his Court?

A Why, I would say he conducted it in a very efficient manner and in a very proper manner.

Q Did he - - - he was senior Judge, I believe, up until May 30, 1956, for some period of years, was he not?

A From 1948.

Q From 1948 up until - - -

A Approximately at the beginning of 1949.

Q Yes sir. Did he, in addition to taking care of the administrative business of the Court, such as assignments of Judges in cases, and so forth, take his regular turn on the Bench and fully perform the work of a full division of that Court?

A He presided over one division and took care of all the business in that division, as did the other Judges in their divisions.

Q Now, from your knowledge of Judge Holt, from your experience, contacts and relationships with him, I wish you would state to the Senate your opinion, with respect to Judge Holt's judicial integrity and honor?

A In my opinion, Judge Holt has been a very capable Judge. He has dispatched the business of the Court with as much speed as was possible, and he's treated everybody who came into the Court with the respect to which they were entitled, including lawyers, witnesses, jurors, litigants, and visitors in the Court room.

Q In your opinion, does he possess high judicial integrity and honor?

A He certainly does.

Q Would you consider that Judge Holt at this time possesses the same integrity and honor that he enjoyed and possessed prior to April 3, 1956?

A He certainly does. There's been nothing in the world that has happened to change it.

MR. HUNT: Take the witness.

CROSS EXAMINATION

BY MR. BEASLEY:

Q Judge Wiseheart, isn't it your opinion that since the charges against Judge Holt have become known to the people of Dade County, that because of his personal conduct and the conduct of his office, that he himself, and his office, have fallen into disrepute with the people of Dade County?

A That is not true, sir.

MR. BEASLEY: That's all - - - just a minute, wait a minute.

BY MR. BEASLEY:

Q Judge Wiseheart, do you consider it proper for a Circuit Judge to allow an attorney who practices before him to finance the purchase of an automobile for him?

A Yes, I - - - in some instances, I can see nothing wrong with it.

Q Would you name an instance where you would see nothing wrong in it?

A Yes. I let my brother finance one for me one time.

Q Have you ever let an attorney practicing in your Court finance an automobile for you?

A No, none other than my brother.

Q Do you think it's proper for a Circuit Judge at eleven-fifteen at night, to get in a Jaguar automobile and drive down one of the main streets of the City of Miami at seventy miles an hour, and disregard a red light, and run over two people riding on a motorcycle, and almost kill them?

A Well, if that was done, I would say that he would be getting himself into trouble.

Q Yes. Do you think it's proper for a Circuit Judge to enter into a lucrative business deal with an attorney then practicing before his Court, and who had litigation pending before his Court at that time?

A If he has litigation pending, there may be some reason not to.

Q You don't think that's - - -

A There may be some reason not to do it, if there's litigation pending.

MR. BEASLEY: That's all.

REDIRECT EXAMINATION

BY MR. HUNT:

Q Judge Wiseheart, were you called to the Jackson Memorial Hospital in the early morning of December 21, 1956?

A I was notified by one of the police officers of the City of Miami that Judge Holt had had an accident, and I went to the hospital.

Q What time did you arrive at the hospital?

A Oh, it was sometime between twelve and one o'clock.

Q Will you state to the Senate where you found Judge Holt?

A He was in a private room.

Q Could it have been later than that, Judge Wiseheart?

To refresh your recollection, the accident is established as having taken place around eleven-thirty. I think he reached the hospital shortly after twelve.

A I reached the hospital before any members of the family did, or before any private doctor was called, because I insisted that they call a private physician.

Q Where was Judge Holt when you reached the hospital?

A He was in a room of the hospital. I don't know the number of it.

Q Was he conscious?

A He was unconscious.

Q Did you get near him and stand over him?

A I was close enough to touch him.

Q Was he - - -

A And I did touch him, and tried to talk to him, let my voice be heard, in the hopes that it would rouse him.

Q Was he breathing deeply?

A Very.

Q Almost snoring, in unconsciousness?

A I would call it that.

Q Was he bleeding at that time?

A There was blood about his face. I don't know whether it came from his ears, his mouth, or his nose.

Q Will you state to the Senate whether or not you detected any odor of alcohol on Judge Holt's breath?

A I did not.

MR. HUNT: Take the witness.

MR. BEASLEY: No further questions.

MR. HUNT: Thank you, Judge.

(witness excused)

MR. HUNT: Call Dean Rasco.

Thereupon,

RUSSELL A. RASCO.

a witness called and duly sworn for and in behalf of the Respondent, was interrogated and testified as follows:

DIRECT EXAMINATION

BY MR. HUNT:

Q Will you please state your name?

A Russell A. Rasco.

Q Your place of residence?

A Coral Gables, Florida.

Q What is your profession or occupation, sir?

A I'm Dean of the Law School of the University of Miami.

Q How long have you been Dean of the Law School of the University of Miami?

A I was appointed acting Dean in 1930, and Dean in '35; have been Dean since.

Q You've been acting Dean since 1930?

A Acting Dean - - - that's right.

Q And then, Dean since 1935?

A That's right.

Q Dean Rasco, what is the number of instructors or professors on the faculty of the Law School at this time, approximately?

A We have twenty-six full-time professors, and I use, generally, about twelve or fifteen part-time instructors.

Q Twenty-six full-time, and twelve to fifteen part-time?

A That's right, and that includes me, as Dean, and the librarian, and assistant librarian, and all personnel.

Q What's the approximate number of students in the Law College?

A We had four hundred in the daytime and one hundred fifty in the evening, but we've had about sixteen in graduate school, of course.

Q Will you state to the Senate, Dean, in your own words, a tracing of your personal associations and contacts with the Respondent, Judge Holt, during the course of long residence and association with him in Miami?

A I first knew George Holt, I think, in 1930 or '31, when my brother asked me to handle a divorce case for a Negro fireman on the Florida East Coast; and he had - - - the Negro wife lived in Miami, and brought a divorce against the boy, who lived in New Smyrna - - - my brother was practicing over there, and asked me if I wouldn't handle the case in Miami for him, and to file a cross bill against the girl; and the Judge appointed George Holt as Special Master in that case.

I remember we paid him a \$50 fee as Special Master; I remember that.

A lot of amusing things happened in the case. I think we got about \$600 fee ourselves, and that was the first time I ran into George Holt.

In 1931 - - - you see, I was appointed acting Dean in 1931, and I got two lawyers, two graduates from the University of Illinois to teach for me, and the University of Miami went bankrupt, and when they went bankrupt, why, these two young fellows quit; they wouldn't teach in a bankrupt institution.

So, I looked around to find somebody to take, and I got Mack Flowers and George Holt to teach for me, and I think Judge taught for me for, I know, several years.

I managed Claude Pepper's campaign for Senator. We de-

cided to put George in the Legislature; so, we used the organization and got George to the Legislature, and I believe he served three terms.

He was appointed Judge by Spessard Holland, who was then Governor, and I had a few cases before Judge Holt. I don't do a great deal of practice; I do some; and I think he's appointed me Special Master in three uncontested divorce cases - - - I believe that's all I've had out of him, three \$25 fees, maybe four; and I've known him socially, been entertained in his house; I've entertained him in my home. We are great friends of Carson; we entertained with them; Jouett Shouse, who used to be Assistant Treasurer of the United States, came down to Carson's, Jim Carson's home, and he became a great friend of George Holt's and Jim Carson's.

Q Dean, let me ask you this: Has - - - since Judge Holt left your instructional staff, has he, on several occasions, been back to the Law School at your invitation?

A Yes, I've had him back several times myself, or had him speak at my Dean's dinner. At one of the Dean's dinners, I gave him a certificate of merit for the fine work that he had done on the Bench, and as a legislator; and the students were always asking him out to speak at the fraternities, and I suppose he's been out a couple of dozen times since he's quit.

Q His interest in the youngsters and in the Law College has continued right on through the years, is that it?

A It always has.

Q Dean Rasco, what is your opinion of the manner in which Judge Holt conducts his Court?

A Well, I've practiced before nearly all the Judges in Dade County, and particularly, older Judges - - - some of the new ones, I haven't, and I've always thought he was a very fine Judge, one of the finest Judges we've ever had; and he rides his Court, he's on top of it every minute, and he runs it with fine decorum, and with a great deal of justice, I think, and good discipline, very fine discipline.

Q Does Judge Holt, in your opinion, possess a high degree of judicial integrity and honor?

A In my opinion, yes, to a great degree.

Q Did the events of April 30, 1956, or the newspaper comments following that event, have - - - make any difference, so far as your opinion of Judge Holt's high professional and judicial integrity are concerned?

A No, except, perhaps, when a man goes through adversity, he'll probably make a better Judge, I think. He always has been one of our best Judges, and he still will be a fine Judge - - - even better, in fact, because of the adversity he's gone through, and I think his integrity and intelligence, in my mind, cannot be questioned.

MR. HUNT: That's all.

#### CROSS EXAMINATION

BY MR. BEASLEY:

Q Dean Rasco, do you know anything about the Stengel case?

A The Stengel case?

Q Yes sir.

A No.

Q Do you know anything about the Dowling case?

A No, except what I read in the papers, and the papers, in the Dowling case, said that - - - there was an adjourned Grand Jury report, the report itself, according to the papers, said that they didn't use all the papers in the Dowling case to bring the report out.

I remember that, and what we all saw in the papers - - - in fact, I think the report itself says they did not use all the papers - - -

SENATOR RAWLS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Rawls.

SENATOR RAWLS: I believe it would be appropriate to instruct this witness as to the action of the Senate yesterday, with reference to the matter he's now testifying to.

THE WITNESS: I'm very sorry; whatever I read in the papers - - -

CHIEF JUSTICE TERRELL: Dean Rasco, the Senate, sitting as a Court of Impeachment, on yesterday adopted a motion to strike all reference to the Grand Jury reports that haven't been introduced in this case heretofore, and have none introduced in the future. So, you will please not mention anything you know about the - - -

THE WITNESS: I don't know anything about them, except what I read in the newspapers.

BY MR. BEASLEY:

Q You've been a close personal friend of Judge Holt's for many years, have you not?

A That's right.

MR. BEASLEY: That's all.

MR. HUNT: Thank you, Dean.

(witness excused)

MR. HUNT: Your Honor, may we have a five-minute recess to talk to a witness who arrived from Miami, that I haven't even seen yet - - -

CHIEF JUSTICE TERRELL: Yes sir.

MR. HUNT: - - - and then we'll bring him in, and we'll be ready to go.

CHIEF JUSTICE TERRELL: Court will be at ease for ten minutes.

Whereupon, the Senate stood at ease from 10:30 o'clock, a.m., until 10:40 o'clock, a.m.

CHIEF JUSTICE TERRELL: Order in Court. Without objection I declare a quorum present.

MR. HUNT: Is the Court ready?

CHIEF JUSTICE TERRELL: Yes, the Court is ready.

Order in Court.

Thereupon,

LEONARD USINA,

a witness called and duly sworn for and in behalf of the Respondent, was interrogated and testified as follows:

#### DIRECT EXAMINATION

BY MR. HUNT:

Q Would you state your name, please?

A Leonard Usina.

Q Mr. Usina, where do you reside?

A Dade County.

Q What is your profession or occupation in Miami?

A Banking.

Q How long have you resided in Dade County and engaged in the banking business?

A About twenty-five years.

Q Will you sketch your banking connections in the county up to the present time, please sir?

A I was with the Florida National Group of Banks, managing - - - acting as president of the Florida National Bank and Trust Company, in Miami, until December of 1949.

Q Well, now, for what period were you the head of the Florida National Bank in Miami?

A I guess about twenty years, or thereabouts, eighteen, nineteen years, something like that.

Q Now, upon your departure from the Florida National presidency, did you organize one or more banks of your own? Will you sketch that situation to the Senate?

A Yes sir.

I went to Miami Shores, and with a group, established the Peoples National Bank of Miami Shores, and I think it was December of '49.

Q Are you the president of the Peoples National Bank?

A Yes, I am.

Q Do you have other affiliations and connections there?

A Yes sir, we are interested in a bank at North Miami, and one at North Miami Beach.

Q What are their names?

A The American National Bank of North Miami, and the Peoples Bank of North Miami Beach.

Q Mr. Usina, do you know the Respondent in this case, George E. Holt?

A Yes sir, I do.

Q How long have you known Judge Holt?

A Oh, I expect it goes back to 1939, 1940, or thereabouts.

Q Will you state to the Senate, in your own words, what connections or associations you've had with Judge Holt over the years?

A Well, we loaned him some money back in those other days that I knew him, and I got acquainted with him later on, after I moved out to the Shores, to an extent, socially.

Would you like that developed, or - - -

Q Yes. Go right ahead.

A After you get fifty or sixty years of age, you can't remember dates and things like that so well, but I'll do the best I can.

I seem to recall having met Judge Holt and Mrs. Holt at the Surf Club on the occasion of a party that was given by the Orange Bowl Committee. It was a rather large affair, and everybody was in a gay mood, you might say; and we didn't have a reservation, and the Holts asked us if we wouldn't join them at their table, which we did, and we spent that evening there with the Holts.

And then, on another occasion, I don't know whether it was several months or a year or two, maybe, I don't recall, but we gave a private party at the Surf Club, and had the Judge and Mrs. Holt, among others, as our guests.

So, on those two occasions, we were with them socially.

Then, on another occasion, we attended the reception at the marriage of his daughter; and that about sums it up.

Q So far as social contacts are concerned?

A That's right.

Q Do you belong to any civic organization of which Judge Holt is a member?

A Yes sir, I've been a member of Kiwanis since I was a young man, and Judge Holt has been a member of the downtown club, the same club.

Q I see.

Mr. Usina, from your long residence and business experience in Miami, what is your opinion, sir, as to the - - - as to the judicial integrity - - - reputation for judicial integrity and honor which Judge Holt enjoyed as a Circuit Judge?

A I think it's all right.

Q What is your opinion, as to his integrity and honor, as of this date?

A I think it's all right.

Q Is it your opinion that he possesses high honor and integrity?

A Yes, I feel that way about it.

MR. HUNT: Yes. Take the witness.

CROSS EXAMINATION

BY MR. BEASLEY:

Q Mr. Usina, of course, you understand that a man's reputation is what people in the community say about him.

What, now, since these charges have been brought against Judge Holt, and since the things he is charged with have been brought to light in the Eleventh Judicial Circuit, which is Dade County, what, now, do the people down there generally say about him?

A I think that the thinking people are on his side; that would - - -

Q Isn't it a fact that in the Eleventh Judicial Circuit, because of the things that Judge Holt is alleged to have done, that his Court and he himself has fallen into disrepute?

A No, I wouldn't say that.

Q Do you know anything about the Stengel case?

A No sir.

Q Do you know anything about the Dowling case, of your own knowledge?

A No sir, I do not.

Q You know nothing about the way Judge Holt has conducted his Court, with reference to a number of cases that have been before him do you?

A Well, I've always been an amateur Judge myself. I like to read opinions of Judges, and things of that kind. I've done it, in a way, through the newspapers; kept up with what has gone on in the Court, but that's as far as I know.

Q You know nothing of a Flame Restaurant affair either?

A No. I've eaten there a time or two, but that's about all.

MR. BEASLEY: That's all.

MR. HUNT: Thank you, Mr. Usina.

(witness excused)

MR. HUNT: We'll call Judge Holt at this time.

Thereupon,

GEORGE EDWARD HOLT,

the Respondent, having been called and duly sworn for and in his own behalf, was interrogated and testified as follows:

DIRECT EXAMINATION

BY MR. HUNT:

Q You are the Respondent, George Edward Holt?

A I am.

Q Judge Holt, where were you born?

A November 1, 1902, Nashville, Tennessee.

Q Where did you receive your education?

A I attended Montgomery Bell Academy, in Nashville, Tennessee, and then was admitted to one year of engineering at Vanderbilt University, and from there, I transferred to its law school.

Q And did you graduate from the Law School at Vanderbilt?

A I did, but before I graduated, in 1924, I took the two-day Bar examination of the State of Tennessee, and passed it; and in 1925, received my L. L. B. degree from Vanderbilt University Law School.

Q Do you belong to any legal fraternities?

A Yes sir, I belong to the honorary legal fraternity of Phi Delta Phi.

Q What did you do upon your graduation?

A I immediately came to Miami, Florida.

Q And what was your profession or occupation in Miami?

A Well, I secured employment in the office of Willard & Knight, attorneys at law.

Q That's Judge Willard, who is now and has, for a long time, been Judge of the Criminal Court of Record?

A Yes sir, Judge Ben C. Willard was the senior partner of the firm, and it was a very large firm then, and I did office work and prepared to take the Florida Bar exam, which I did, in February of the next year.

Q Did you pass the Bar examination of Florida the following year?

A Yes sir, I did, and as I recall, Judge Robert H. Anderson was Chairman of the Examining Committee; the first time I'd ever met him.

Q Was that in 1926?

A In February, 1926.

Q Will you sketch your professional, political and judicial career for the Senate since that time?

A Well, from 1926 to 1941, I was in general civil practice, first associated with Willard & Knight, and after Judge Willard withdrew, we formed the firm of Knight, Pace & Holt.

Then, I practiced alone from 1932 to 1941, when I was appointed to the Circuit Bench by the then Governor, Spessard L. Holland.

Q Now, during that particular period, did you also teach at the Law School of the University of Miami?

A Yes sir, I was professor of law there for seven or more years, as Dean Rasco has testified here; and I taught the subjects of Constitutional law, conflicts of law, torts, sales, criminal law and public utilities.

Q But you continued your general practice throughout that time, did you not?

A I did.

Q Now, will you go ahead?

A From 1937, 1939, 1941, I was a member of the House of Representatives of the State of Florida, being one of the three Representatives from Dade County.

Then, as I said before, in 1941, I was appointed to the Bench, and in 1947, I was called to sit as Associate Justice of the Supreme Court of Florida; and in 1948, I was reelected, without opposition, as Circuit Judge.

From 1949 to 1953, I was the President of the Circuit Judges Conference of the State of Florida.

Q What was that date, Judge, or those dates?

A Started in 1949 and ended in 1953.

Q Were those elections each year?

A Each year, and I was reelected four times, and served four consecutive years as presiding officer of the Circuit Judges of Florida.

In 1949, I was selected and acted as representative of the Southeastern United States, as a member of a study tour of the new State of Israel.

In 1951 - - -

Q Who - - - by whose appointment was that effected, Judge?

A That was effected by the local chapter of the American Christian Palestine Committee.

For the purpose of the tour, they gathered together about

seventeen or eighteen from all over the United States, from Seattle, Washington, to Miami, Florida, to go to the State of Israel and observe their celebration of their first year of freedom as a new state, and to report back to America what we had seen.

I made over a hundred-odd speeches on the subject in the State of Florida, Georgia and North Carolina. The purpose of these was to acquaint Gentile - - - and I only made four speeches to Jewish organizations - - - to acquaint the Gentile population with the problems and the possibilities of the new State of Israel.

Q Go ahead, sir.

A In 1951, I concluded five years as vestryman of the Church of Resurrection Episcopal Church which, with four others, I helped to found after a lifetime spent in Episcopal Churches.

Going back, now, in 1949, I became, under the Constitution, senior Circuit Judge of the Eleventh Judicial Circuit, and at that time we had ten Circuit Judges; we now have fourteen.

Do you want any affiliations, or anything like that?

Q You might as well go right ahead, Judge, with your affiliations, and we'll shortcut it and save questions.

A I'm a member of Chi Phi social fraternity; Phi Delta Phi legal fraternity; Miami Kiwanis Club; York Rite; Scottish Rite; Mahi Shrine; Royal Order of Jesters; and the Benevolent Order of Elks.

For the past - - - now, and for the past, I think it's sixteen years now, I've been treasurer of the Dade County chapter of the National Foundation for Infantile Paralysis.

From 1941 through 1952, I was Dade County Chairman of the March of Dimes; 1947 through 1949, I was State Chairman for the State of Florida for the March of Dimes.

And going back a little, 1943 to 1945, the war years, I served as temporary reserve, United States Coast Guard, first, as training officer, then as commanding officer of the Port Security Force.

I was disenrolled with the rank of Lieutenant Commander, - - - Commander, U. S. Coast Guard Reserve, Temporary; authorized to wear World War II Victory Medal, American Area Campaign medal, the U. S. Coast Guard Pistol Expert medal; and I received the certificate of satisfactory service from the Commander of the United States Coast Guard.

In 1952, I was recommended by the American Bar Association for appointment as United States District Judge in Panama, but I declined it.

In 1952, I received commendation from the Courts Committee of the Dade County Bar Association for securing extra Court room space and bringing trial docket to current standing for the first time in twenty-five years.

In 1952, voted one of the five lawyers of Dade County for recommendation in the Fourth Congressional District to the Governor for appointment in the Supreme Court of Florida.

In 1953, called and served on the Supreme Court of Florida twice, once in May and once in July.

1954, I was awarded certificate of merit by the University of Miami Law School, "for outstanding and meritorious service to the legal profession as a lawyer, professor of law, University of Miami, legislator, Judge and senior Judge of the Eleventh Judicial Circuit of the State of Florida," and made an honorary alumnus of the University.

May, 1954, overwhelmingly reelected Circuit Judge, when I had opposition, with a vote that led the entire ticket.

1954 to 1955, I was Chairman of the Miami Metropolitan Municipal Board, which conducted a survey to eliminate overlapping Governmental functions, which resulted in the passage of a Constitutional amendment for home rule in Dade County.

Q What was the number of personnel of that committee, Judge?

A Pardon?

Q How many members did that committee have?

A It had about twelve or thirteen.

Q Were you required to investigate and study the Governmental setups of other cities in the United States, and perhaps, Canada, in the course of your chairmanship - - -

A Yes sir.

Q - - - of that committee?

A Yes sir, we were authorized and instructed, and a committee of three or five of us, I've forgotten which, flew to Los Angeles and studied its system out there, its problems, its expressways, slum clearance, and things of like nature.

From there we went to Toronto, Canada, which has one of the outstanding Governmental systems on the continent today, to prevent the overlapping Government and things of that nature, and studied its system.

From there we went to Baton Rouge, Louisiana, which has a similar problem, and has successfully coped with it, although entirely different from any of the others, and from Baton Rouge, we flew to Atlanta, Georgia, and studied its system and its big expressway, and what they've done for the downtown section of Atlanta, and after concluding that, came back and made a detailed report of our findings.

Q Did that report form the basis of the present Government now in Dade County?

A It's the fundamental basis of the present Government which they are attempting to form at the present time, based upon the information which my committee gathered.

Q Go right ahead.

A That's about all I have here.

Q Judge, at the conclusion of the trip you took to Europe in 1954, I believe it was - - - is that correct?

A Yes sir, I think it was the first part of August, as I recall - - - I'm not quite sure - - - that we returned.

Q Will you state with what you concerned yourself in your time during that trip?

A I spent at least half of my time, or maybe more, in studying the Courts of Europe, to determine whether or not we could use some of that information to improve our own system here in America, and I studied the Courts of Algiers, Italy, France, England, Switzerland and one or two other countries I cannot recall at the present time.

Q Judge, upon your return, did you write a book, or a pamphlet, in connection with your findings and experiences on that trip?

A I did.

Q Having to do with the Courts of those countries?

A I did.

Q Do you happen to have a copy of it in your files?

A No sir, I do not. I think I have one at the hotel room, but I haven't it with me.

Q What was the name of that book?

A "Wig and Robe."

Q Did you attend the Courts of the various countries you have just mentioned?

A I did, and conferred with the various ministers of justice and justices and judges.

Q How many times, in total, have you served on the Supreme Court of Florida?

A Between three and five times, to the best of my knowledge. I can't get it down to the exact number.

I know the first time I served was in - - - when Mr. Justice Thomas was Chief Justice; I think it was in 1947.

Q And do you recall the last time?

A I think it was in July of 1954 - - - '53 or '54, I've forgotten which. I don't think it could be '54.

Let me look at - - - I've got it right here.

Q All right.

A 1953, May of 1953, and July 1953.

Q Judge Holt, at this stage I will ask you to state to the Senate what your relations have been with the morning newspaper in Miami from the time of your appointment?

A It has not been good.

Q How did the Miami Herald receive your appointment by Governor Holland?

A They wrote an article, the next day after I was appointed, that one of two hundred other lawyers would have been a better appointment.

Q Was that a front page article?

A Yes sir.

Q Written over the signature of Ellis Hollums?

A Ellis Hollums, yes sir.

Q He was then associate editor of the paper, was he not?

A I think he was the guiding genius at that time.

Q Do you recall an occasion when there was an action by one or more members of the Circuit Court, directed against the Miami Herald Publishing Company and Mr. John D. Pennekamp, for contempt of Court?

A Yes sir, I do. It was instituted by the now Mr. Justice Paul D. Barns and Judge Marshall C. Wiseheart, who has just finished testifying here.

Q Upon what was that based?

A It was based on - - - mainly on a cartoon and an editorial to the effect that the Judges of Dade County were protecting the gangsters and lawbreakers, and I think the cartoon played a very important part in it; and Judge Barns and Judge Wiseheart offered to excuse themselves at the start of the hearing, and it was not asked for; they went on and heard it, adjudged them guilty of contempt of Court, and the Miami Herald appealed it to the Supreme Court of Florida, which affirmed the conviction.

Q Unanimously?

A Five to two, I think.

Q Five to two?

A Five to two.

Then the Miami Herald appealed the case to the Supreme Court of the United States, where the Supreme Court of the United States reversed the Supreme Court of Florida.

Q Did you participate in any way in that citation for contempt against the Miami Herald and Mr. Pennekamp?

A I did not. I was on my vacation.

Q When you returned to Miami, did you express your feelings in connection with it?

A I did.

Q Generally and publicly?

A Without restriction.

Q What did you say, Judge?

A I don't recall what the penalty invoked upon the Miami Herald was, but I do know that there was no jail sentence in connection with it, and I freely said that if I had been in the case, I would have insisted upon a jail sentence, because it was just such a tremendous attack upon the foundation of our Courts.

Q Then, you let it be known widely you thoroughly approved of - - -

A I did, and since that happened, I have been credited by the Miami Herald and its operators as being responsible for the contempt conviction.

Q You were in deep sympathy with it, were you not?

A I certainly was, and as I understand, the Supreme Court of the United States has been trying to avoid the effects of that decision ever since it's been rendered, and when Mr. Associate Justice Robert Jackson died, he was just on the verge of writing an opinion, repealing and recalling the Miami Herald decision.

Q Are you familiar with the fact that in a more recent Texas case, the Supreme Court of the United States has virtually recalled its judgment in that case?

A They have, and they've attempted to do that in every decision they've written on the same subject.

Q Now, Judge Holt, what have your relations, contacts, been with Thurman A. Whiteside, in Miami?

A I've known Thurman Whiteside ever since I went to Miami. As a matter of fact, his wife and my wife and Thurman Whiteside attended Miami High School together.

Q Go ahead.

A And we've been close friends over the years.

Q You knew him before he entered the legal practice?

A Yes sir, I did.

Q Under what circumstances?

A Through my wife and his wife, and our social contacts, and just before the war, when he was trying to get started in the legal profession, I think that he contemplated once going into legal business with John G. Thompson, another close friend of mine.

Q Well, did he enter the legal business, and if so, who with?

A I don't recall whether he entered with John G. Thompson or not, but about that time, the war came along, and he entered the Marines, and was in the Marine Corps during the entire war, in the Pacific, as a non-commissioned officer.

Q He actually hit the beaches with a rifle, didn't he, Judge?

A Sir?

Q He actually hit the beaches with a rifle in his hand?

A Yes sir, he did, and - - -

Q And by the way, Judge, did not Bishop Louttit do the same thing without the rifle?

A Yes sir, he hit the beaches with his men, and that's the reason he got the Bronze Star.

Q Now, go back to Mr. Whiteside.

He went into the Marines, and spent how long in the Pacific?

A I think four years.

Q Now, what is your recollection of the events concerning him upon his return to Miami?

A Right after his return to Miami, I happened to be sitting in a shoe shine stand across from the Court House, and he came walking up the street, and I was delighted to see him, and I said, "What are you doing?" He said, "I'm hunting for a place to practice law."

I said, "Well, I don't know how good this is, whether it's available or not, but I was talking to Jim Yonge the other day, and he was hunting for a young lawyer to go in his office."

So, he went up to see Jim Yonge, and from that resulted the formation of a partnership.

Q Who was Jim Yonge, Judge?

A Jim Yonge was one of the outstanding lawyers of Florida. He bore a very famous name, I think, in the history of education of this State.

He was a classmate of Spessard Holland at the University of Florida, and was the man who actually put aviation on its feet in this State.

He was general counsel for Pan American Airways when they first built the key, and had those flying boats, and did all their work for them; represented them at the Legislature; in other words, helped them grow up to be the great industry that it is today in the State of Florida.

I would call him the father of aviation in Florida.

Q Now, did Mr. Whiteside's association with Mr. Yonge continue until Mr. Yonge's death?

A It did.

Q Will you state what developed then, if you recall?

A He continued the name of Yonge & Whiteside for a while, and then he sought the assistance of a good lawyer, and about that time, John Prunty had just concluded his duties as Assistant State's Attorney of the Eleventh Judicial Circuit, and they eventually formed the law firm of Yonge, Whiteside & Prunty.

Q And I suppose they practiced together until the dissolution of that law firm?

A They did, although Mr. Whiteside's various business interests prevented him from actively practicing in the Courts. He may have done a lot of legal work in the office that I don't know about, but he certainly wasn't active in the litigation side.

Q Now, you mentioned John Prunty. How long had you known - - - have you known John Prunty, Judge?

A Thirty-two years.

Q Will you state to the Senate how your acquaintanceship with John Prunty began?

A I - - - as I stated before, I arrived in Miami in 1925, affiliated with the Trinity Episcopal Church; taught Sunday School for five or six years, and he was - - - John W. Prunty was one of the first members of my first Sunday School class.

Q And what have your relations with him been from that time down to the present time?

A Been close.

Q Will you state to the Senate in what respect you have been cast with Judge Prunty, and that he with you, and what your relations have been?

A Well, not only in church work, but socially, we have been close.

Q Has Judge Prunty practiced before you since that time?

A Yes sir, he has.

Q Did you know him throughout the time you were teaching law at the University of Miami?

A I did.

Q And throughout the time you served in the House of Representatives?

A Yes. At one time - - - I don't know whether they have the custom any more, but we were allowed to have one man to come up and get on the payroll and help the House delegation, and the Senator in the Senate was allowed to have one man, and Senator Graham asked me who he could procure, and I recommended John Prunty, and he came up here and worked for Senator Graham and the House delegation for one session; I think it was 1939.

Q By the way, I wish you would state to the Senate what your relations with Senator Graham have been?

A They have been close and friendly over the years.

Q Senator Graham was in the Senate, I believe, when Governor Holland sent your name in for confirmation?

A That's correct.

Q Is it your information that Senator Graham is out in the Black Hills of South Dakota on a vacation trip?

A Yes sir, he is.

Q Now, Judge, you have adverted to the occasion of the submission of your name by the then Governor to the Senate. Did the Governor submit the name of another appointee to the Senate at that time in - - -

A Yes.

Q - - - addition to your own?

A Yes, he submitted yours.

Q And was that for reappointment following a previous appointment by Governor Cone, as far as my situation was concerned?

A Yes sir, yes sir.

Q Do you recall that Governor Cone had, in 1940, appointed Judge Milledge and myself to the Bench?

A Judge Hunt, he appointed you, oh, sometime in the fall, September I think, and I don't think he appointed Milledge until around November or December of the last month of the Governor's term in office.

Q That's correct, but Governor Cone had appointed Judge Milledge and me to the Bench - - -

A That's right.

Q - - - before the end of 1940?

A That is right.

Q My appointment preceded Judge Milledge's?

A That's right.

Q Then, when it came time for the sending to the Senate by Governor Holland of the names of his appointees for those two positions, did he submit my name, but refuse to submit Judge Milledge's name?

A He did.

Can I give you some preface on that?

Q Yes.

A At the time that the appointment was offered to Milledge, he went to Ernest Graham and asked if - - -

Q Judge, I don't believe you ought to go into any hearsay now, unless you were present. I believe we ought to stick to the rules.

A Well, he told me this.

Q Who told you?

A Milledge did.

Q Go ahead.

A He went to Ernest Graham and asked him if he would confirm his name, and anyone that knows Senator Graham knows he's a very forthright man, and he said, "Go ahead and take the appointment, Mr. Milledge, but this is a Holland appointment, and not a Whitehair appointment, whom you supported."

So, he went ahead and took the appointment, and when the time came for submission of names to the Senate, Milledge had Giblin and several other lawyers write him a brief, and he circulated to the Members of the Legislature and to the Members of the Supreme Court, which was highly unauthorized practice, that it was the duty of the Governor to submit the name of Milledge to the Senate, that he had no other choice.

So, the Governor called - - - it was then Senator Abe Kanner and myself down to the office, and he was planning

to appoint Senator Kanner to the Circuit Judgeship around Stuart and Fort Pierce.

He said, "I don't want to have any trouble about your appointments," and he pointed to this printed brief he had on his desk, and he said, "I'm going to ask the Supreme Court for an advisory opinion so there will not be any trouble, and I'll know exactly the right thing to do" - - -

Q Judge, at this point, you didn't find my name on that brief, did you?

A No sir.

Q Go ahead.

A I did not.

So, Governor Holland talked with Mr. Justice Whitfield - - - I don't know whether he was Chief Justice then or not - - - and gave us a lawyer, and in about a week, I think, we received an advisory opinion - - - the Governor did - - -

Q The Governor requested an advisory opinion?

A He did, and received one very promptly from the Supreme Court, that he was not required to submit Milledge's name to the Senate, he could appoint anyone whom he pleased, and acting upon that advisory opinion, he appointed me instead of Milledge.

Q And was it the next day, Judge, that the Miami Herald expressed its keen disappointment with - - -

A That's correct, and they've been disappointed ever since.

MR. HUNT: If Your Honor please, I would like to suggest, before we start into the specifications before the Senate, that if it would be agreeable to take the two-hour recess at the present time, give me an opportunity to make a few notes with the witness, whom I have not even had a chance to discourse with this entire week, then we can go right on through it without interruption.

I'll be glad to be guided by the wishes of the Senate.

SENATOR DAVIS: Mr. Chief Justice - - -

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: - - - I move you, sir, that we do now adjourn, to reconvene at one-thirty.

SENATOR SHANDS: Second the motion.

CHIEF JUSTICE TERRELL: You've heard the motion. All in favor, let it be known by saying "aye." Opposed, "no."

The "ayes" have it; the motion is adopted.

The Court is adjourned until one-thirty.

Whereupon, at 11:35 o'clock A. M., the trial was recessed until 1:30 o'clock P. M., of the same day.

## AFTERNOON SESSION

The Senate reconvened at 1:30 o'clock P. M., pursuant to recess order.

The Chief Justice presiding.

CHIEF JUSTICE TERRELL: Court will come to order.

Unless there's some objection, I declare a quorum present.

MR. MUSSELMAN: Mr. Chief Justice, prior to the commencement of the taking of testimony, the Prosecution would like to make a motion and request of the Court in regard to one witness, Mr. Robert W. Meserve, who is presently residing in Waltham, Massachusetts, and whom we've been in contact with.

We desire his presence here in Florida, and he will come, upon our request and insistence, only on the condition that he receives a Writ of Privilege, or a Writ of Protection from this Court, relative to an assurance to him that he will not be served with process or pleadings or arrested in this jurisdiction as a result of coming into this jurisdiction at our request.

We have checked the law - - - and I was unfamiliar with it, and we find there is such a writ, called a Writ of Privilege, or a Writ of Protection, and it's recognized in common law, and we would like to move and request at this time that this Court grant to this witness, Robert W. Meserve, its gracious Writ of Privilege, or Protection, guaranteeing these conditions that he requested coming into this jurisdiction.

CHIEF JUSTICE TERRELL: Do you have your writ prepared, Mr. Musselman?

MR. MUSSELMAN: We are preparing one as rapidly as possible, and I believe it will be a perfunctory matter to execute it upon its preparation.

SENATOR KNIGHT: May I inquire into that?

CHIEF JUSTICE TERRELL: Senator Knight.

SENATOR KNIGHT: Isn't that a dangerous writ?

CHIEF JUSTICE TERRELL: I didn't understand you.

SENATOR KNIGHT: That man could commit murder while he was here, and couldn't be arrested.

MR. MUSSELMAN: No sir, the writ itself is not for that purpose; it's to protect him from other suits outside of the jurisdiction of this Court. It's for the testimony before this Court while he is here and testifying, to protect him from the jurisdiction of other Courts while he's here.

SENATOR KNIGHT: I'm not trying to prevent the witness from being here - - - don't misunderstand me, but I think that's a rather dangerous writ.

CHIEF JUSTICE TERRELL: Mr. Musselman, suppose you prepare your - - - have you got your - - - you say you're in the course of preparing the writ?

MR. MUSSELMAN: We're attempting to have it prepared at this time, Your Honor.

CHIEF JUSTICE TERRELL: How long will it take you to get it in shape?

MR. MUSSELMAN: It will take an hour or so. We would like to have this witness on the plane this evening. If we could inform him that the Senate was in accord, we could prepare the writ, and he could catch the plane.

CHIEF JUSTICE TERRELL: Well, you've heard the suggestion, heard the request, Gentlemen. What's your pleasure?

SENATOR EATON: Mr. Chief Justice - -

CHIEF JUSTICE TERRELL: Senator Eaton.

SENATOR EATON: - - as one member of this Court, I would like to have somebody familiarize me with the proceeding that counsel is talking about. I don't know of ever hearing about the law, and I sure do want to hear about this writ. I never have heard about it.

CHIEF JUSTICE TERRELL: What is the statute you are relying on, Mr. Musselman?

MR. MUSSELMAN: There is no statute on the subject, Your Honor; this is purely and simply a common law writ. We have referred to Crandall, Florida Common Law Practice, and he recited, in Section 29.1, Chapter 3:

"Privileges and exemptions from service of process," and if you'll allow, I'll read this.

SENATOR KNIGHT: I'd like to hear it myself.

MR. MUSSELMAN: "Certain privileges and exemptions from the services of process are generally recognized. The subject so far as the writer knows has not been discussed by the Florida Supreme Court. There have, however, been some Florida cases in the Federal Courts where this question has arisen. So far as the immunity by reason of attendance at Court is concerned the English doctrine as stated in Meekins vs. Smith, 126 English Reports Full Reprint 363, is: 'All persons who have relation to a cause which calls for their attendance in Court, and who attend in the course of that cause, though not compelled by process so to do, (such as bail), are privileged from arrest, \* \* \* provided their attendance be not for any unfair purpose.'

"The privilege from arrest has been construed to include the service of a summons for the reason that the privilege arises out of the authority and dignity of the Court where the cause is pending. The New York Court of Appeals in Parker vs. Marco, 136 New York 585," and other citations, "said: 'At common law a Writ of Privilege or Protection would be granted to the party or witness by the Court in which the action was pending, which would be respected by all other Courts. We cannot find that the power to issue such a writ has been abrogated by legislation, and it doubtless exists, and the writ may still be granted by Courts possessing a common-law jurisdiction; but, while the granting of the writ is proper, it is not necessary for the enjoyment of the privilege, and the only office which it can perform is to afford "convenient and authentic notice to those about to do what would be a violation of the privilege, and to set it forth, and command due respect to it.'"

That's all the law we could find on the subject on this short notice.

MR. HUNT: Mr. Chief Justice, may I call the attention of the Court to the very clear pronouncement, near the end of that which the Honorable House Manager just read, that such a writ may be issued by a Court possessing common-law jurisdiction. This Court is a Court of extremely limited jurisdiction, possesses no common law jurisdiction - - -

MR. MUSSELMAN: I believe, sir, that impeachment was recognized at common law, and I believe this Court has that jurisdiction.

MR. PIERCE: Mr. Chief Justice - - -

CHIEF JUSTICE TERRELL: Mr. Pierce.

MR. PIERCE: - - - May I be heard just briefly?

CHIEF JUSTICE TERRELL: Yes sir.

MR. PIERCE: First, we haven't been given opportunity to examine the law for ourselves. We don't know what somebody else besides Brother Crandall might say, or we don't know what Mr. Crandall might say ten pages from that. I think we should certainly be entitled to check the law ourselves first, to determine whether or not such a writ is - - - especially, in this case - - - is even provident to be granted.

In the second place, I think the writ itself should be prepared and produced first, so we can see what it does contain; and third, we'd like to know what the man is scared of to come down here. What's he afraid of?

MR. MUSSELMAN: He was the party that had Mrs. Bickford come to Florida, and we know the results of that visit, sir.

He was the conservator in Massachusetts, and it involves the Dowling estate. I believe his testimony would be very, very important.

MR. PIERCE: May I ask a question, Mr. Musselman?

MR. MUSSELMAN: Yes, you may.

MR. PIERCE: Was he a party to any contempt proceeding?

MR. MUSSELMAN: He certainly was not.

MR. PIERCE: I didn't think he was.

MR. MUSSELMAN: But I don't believe - - - he has great fear of coming to Florida as a result of that contempt proceeding we were discussing.

MR. PIERCE: If he's not a party to it, how could he be disturbed by it?

MR. MUSSELMAN: I don't know that Mrs. Bickford was actually a party to it; that's my information.

MR. PIERCE: She was here, and she was a party; she was before the Court.

MR. MUSSELMAN: She was jailed for it after she arrived.

MR. HUNT: In addition to pointing out that this Court has no common law jurisdiction, and is a Court of extremely limited jurisdiction and function to try one type of case set

up in the Constitution, and that only, I would like to point out, for whatever it may be worth as to the broader aspects of the situation, that the testimony now before the Senate shows a line of demarcation between the Massachusetts administration and the Florida administration of assets. It shows that there have been conflicting claims; it shows that the Massachusetts people sent down here to get signatures to perform certain undertakings back in Massachusetts.

Now, if these gentlemen are permitted to begin the flow of witnesses in here to testify to happenings in Massachusetts, you're going to open up an entirely different line of inquiry and of trial. It will extend this trial; it will necessarily accord to the Defendant a reasonable opportunity to go or send to Massachusetts to show the other side of the Massachusetts story as it developed up there in the Courts and in conferences, and I respectfully suggest that when you vote on whether or not you will grant amnesty or protection to Mr. Meserve from Massachusetts, that you have in mind changing the situs, so to speak, of this inquiry and this trial from your own State of Florida to Massachusetts, because we'll be required to bring other people here who do not see the matters eye-to-eye with Mr. Meserve.

Now, I don't know whether the State is paying the gentleman's fare here or not. I suggest, if they have that in mind, or if they intend to do it, that they make money available to the Defendant for the same thing.

MR. JOHNSON: Mr. Chief Justice, if I may be heard also, during the course of the proceedings, there has been a great deal of testimony by the witnesses for the Respondent, concerning what occurred in Massachusetts, concerning business within Massachusetts, and one of the witnesses, in discussing fees, discussed at length the assets in Massachusetts.

Now, I think, in all fairness to the Senate, sitting as a Court of Impeachment, that they are entitled to know the entire picture; they are entitled to know the extent of the estate in Massachusetts; they're entitled to know what fees were awarded in Massachusetts, where the great bulk of the estate lies, and we feel that in fairness to the Respondent and to the Managers and to the Senate, all the testimony which is relevant and material to this case ought to be allowed to come before this body, and the only way we can procure the attendance of this witness is to assure him that when he comes to Florida, he will not be treated in the fashion that Mrs. Bickford was treated, in jail for contempt, and that's all we're asking, that he be awarded and extended this ancient and honorable plea of Writ of Protection, or Writ of Privilege, for which there is adequate authority throughout the common law and throughout the Courts of our Country.

SENATOR EATON: Mr. Chief Justice - -

CHIEF JUSTICE TERRELL: Senator Eaton.

SENATOR EATON: - - I want to ask the Managers a question, but first I want to ask your permission to let me just make a statement, as a member of this Court.

I want to make it perfectly clear, Members of the Senate, and Mr. Chief Justice, that the issue, in my mind, is not whether or not the witness should come here, and whether we should have a complete set of facts, as outlined by the Managers. Certainly, you have the right to subpoena any rebuttal witness.

The issue and the question, in my mind, is, has there been sufficient fact laid out by way of a motion that you have made to show the necessity to surround one witness over all the others with some immunity.

Now, it would cause me to presume that the Circuit Judges presently in office in the State of Florida are unfair or unjust, or that we must presume that they plan to throw somebody in jail if he comes to Florida.

Now, if there is sufficient reason to surround any witness with this immunity, let us do it, but let's not turn it upon the question of whether he should come here or not. Certainly, he can come; certainly, we can subpoena him.

So, I ask you, the Managers, what predicate, what is there before the Senate that would cause us to treat this man

differently from any other witness, and if there is a reason, I'm for having him here under this immunity.

MR. MUSSELMAN: Senator Eaton - - excuse me - - but in reply to what you say, I do not wish to be put in the position of arguing with you about the matter.

I simply want to state that our process of service is not effective in Massachusetts, and I believe you understand that we could not compel his attendance; we have to request him to come and to insist that he come. If he refuses, there is nothing we can do.

The only way he has agreed to come is if he has this Writ of Protection and Privilege; if he does not get it, he will not come, and we will be bereft of his presence here to testify.

We have pled with him to come; we have insisted the very things that you have stated, but nevertheless he feels that he cannot come and will not come unless we are granted that writ.

SENATOR POPE: Mr. Chief Justice - -

CHIEF JUSTICE TERRELL: Senator Pope.

SENATOR POPE: - - - I would like to ask the Court a question.

If this writ were granted, and this person testified, would that protection extend to such matters as perjury or any misstatement of the things that he might be liable to for what he testified here?

CHIEF JUSTICE TERRELL: I don't think so. That's just my offhand opinion.

SENATOR EATON: Mr. Chief Justice, may I ask one other question of the Managers?

If this thing is valid, if this Court has common law jurisdiction, and if Professor Crandall is right, what protection will this witness have under this writ, exactly, so the Senate will understand it?

I don't - - -

MR. MUSSELMAN: As we construe it, sir, if he's served with process from another Court within the State, it would be in contempt of the Senate, or the orders of the Senate.

That's the way we construe it.

SENATOR EATON: Would that be from civil process?

MR. MUSSELMAN: That's correct.

SENATOR EATON: Then, in other words, if he had a lawsuit brought against him, and he were served here, this might protect him as - - -

MR. MUSSELMAN: That's right, render him immune from civil service, that's correct.

SENATOR EATON: And would that be embodied in your writ that you propose to draw?

MR. MUSSELMAN: That's correct.

SENATOR EATON: And it would be nothing more than civil service?

MR. MUSSELMAN: Well - - -

SENATOR SHANDS: Mr. Chief Justice, I'd like to ask a question of Senator Eaton.

SENATOR EATON: Yes sir.

SENATOR SHANDS: That would not apply to any future action, but would only apply to something that happened heretofore, wouldn't it?

MR. MUSSELMAN: That's correct.

SENATOR SHANDS: That would throw protection around a man, - - -

SENATOR EATON: It would have to be drafted, I presume, in the way that you point out.

SENATOR SHANDS: Against all actions that happened heretofore?

MR. MUSSELMAN: Nor for anything committed while here.

SENATOR BRACKIN: Mr. Chief Justice - -

CHIEF JUSTICE TERRELL: Senator Brackin.

SENATOR BRACKIN: - - - I would like for the Managers to explain to me why such preference should be shown some citizen from Massachusetts that hasn't been shown the citizens of Florida.

MR. MUSSELMAN: Senator, let me say this: We attempted not to do that. We requested him to come by phone, calling him several times on the phone at his home and at his office, and pled with him to please come down, but he will not do so, he will not respond to our subpoena like that.

MR. HUNT: Mr. Chief Justice, I would like to also make the observation that there is no testimony before the Senate that the Respondent, who is the man on trial here, has ever participated in any litigation in Massachusetts, with or without Mr. Meserve, or that Mr. Meserve in any way ever made an appearance before the Respondent in the course of the Dowling case or otherwise, or that they even spoke to each other or ever stood in each other's presence, and I think it ought not to be lost sight of that it is this Respondent on trial for what he did or did not do in his office in the Eleventh Circuit, rather than what happened up in Massachusetts, including what fees they paid for their own Massachusetts administration. It would not be relevant in a Court in Florida, would not be permissible evidence.

MR. MUSSELMAN: Well, sir, the witness might testify to a conversation between Mr. Heller and Mr. Wright and Mr. Meserve in a hotel room in Massachusetts. There was testimony by the witness Prunty as to what was being done in Massachusetts by Mr. Heller while he was there, we would like to rebut and explain all of these matters that were brought out by Defense witnesses.

SENATOR BRACKIN: Mr. Chief Justice - - -

CHIEF JUSTICE TERRELL: Senator Brackin.

SENATOR BRACKIN: - - - I move that the motion, as made by the Prosecution, be denied.

SENATOR BELSER: Second the motion.

UNIDENTIFIED SENATOR: Call the roll.

CHIEF JUSTICE TERRELL: You've heard the motion, Gentlemen.

SENATOR BELSER: Second the motion.

CHIEF JUSTICE TERRELL: It's been moved and seconded that this request that this gentleman from Massachusetts be called as a witness be denied.

CHIEF JUSTICE TERRELL: Call the roll, Mr. Secretary.

SECRETARY DAVIS: Senators Adams - - -

SENATOR KICKLITER: Mr. Chief Justice, may I ask one question before you call the roll?

CHIEF JUSTICE TERRELL: Yes.

SENATOR KICKLITER: I would like to know, by way of information, is this motion to contain two requests? One is his coming here and testifying, and second, that you cloak him with protection from process of law, is that correct? Are both of those requests in one, or do you want to set the motion on two points?

MR. MUSSELMAN: We're only concerned with the last one, Senator, and that is, that he be clothed with protection while here.

SENATOR EATON: Mr. Chief Justice, I'm sorry to impose myself upon this Court so often, but it seems to me, sir, that we are about to vote upon the signing of a writ which we have not even seen.

CHIEF JUSTICE TERRELL: No, I think, Senator Eaton,

my interpretation is that we're about to vote on the question of whether or not we will grant that motion. The senator made the motion, Senator Brackin made the motion that the request be denied.

SENATOR EATON: Yes sir.

SENATOR SHANDS: Mr. Chief Justice, aren't we, in effect, though, voting on the question as to whether or not we're going to grant the motion as to - - -

CHIEF JUSTICE TERRELL: The motion was, as I understood, Senator Shands, was that the request be denied.

SENATOR GETZEN: Mr. Chief Justice, may I ask a question?

CHIEF JUSTICE TERRELL: Senator Getzen.

SENATOR GETZEN: I'd like to ask this: Do I understand that if this witness comes down, he will be here in the morning, so this trial won't be delayed?

MR. MUSSELMAN: Yes sir, if we can do it, as rapidly as we may.

SENATOR GETZEN: May I ask another question?

MR. MUSSELMAN: Yes sir.

SENATOR GETZEN: If it's necessary for the Respondent to bring witnesses down here to refute, do they have the same protection as this witness will have?

MR. MUSSELMAN: That's up to the Court.

SENATOR GETZEN: I guess that would be understood.

SENATOR BRACKIN: That's not the motion that they asked. The motion asked for this one man.

CHIEF JUSTICE TERRELL: If you're in favor of denying the motion, vote "aye."

SENATOR JOHNS: Mr. Chief Justice - - -

CHIEF JUSTICE TERRELL: Senator Johns.

SENATOR JOHNS: - - - I'd like to ask the Defense, are they going to bring any witnesses down from up North too? I would just like to know how long this thing is going to be delayed for this.

MR. HUNT: To the extent that the prosecution goes into any new phase other than that which they have laid before the Senate in their case in chief, they will force us to request additional time, not only to bring down witnesses, but to conduct an investigation back to Massachusetts.

SENATOR JOHNS: In other words, Mr. Chief Justice, as I see it, if we open the door to this, we can be here two or three weeks longer, and at the expense of the taxpayers.

MR. PIERCE: Mr. Chief Justice, and also, any witnesses that we might deem necessary to refute any portion or portions of this man Meserve's testimony, we might be able to get them to come down voluntarily, willingly, or we might not.

They just admitted that they're beyond the process of this Court, even this high Court of Impeachment, and they might not be willing to come down even with a writ, and you'll only have one half, or one-tenth, or one per cent of the story.

SENATOR SHANDS: Mr. Chief Justice - -

CHIEF JUSTICE TERRELL: Senator Shands.

SENATOR SHANDS: - - - I'd like to make a substitute motion, that we defer any action on this until the actual writ is presented to this body.

(The motion was seconded from the floor)

CHIEF JUSTICE TERRELL: You've heard the substitute motion, that we defer any action until the writ is prepared and submitted to the body for consideration.

All in favor of the motion, let it be known by saying "aye." Opposed, "no."

The "ayes" have it unless somebody asks for a decision - - -

(No response)

The "ayes" have it; the motion is adopted.

MR. HUNT: Is the Court ready?

CHIEF JUSTICE TERRELL: Yes. Court will be in order.

Thereupon,

GEORGE EDWARD HOLT,

the Respondent, resumed the stand and testified further as follows:

DIRECT EXAMINATION (CONT'D)

BY MR. HUNT:

Q Judge Holt, I believe you stated that upon your return from Europe you wrote a book, entitled "Wig and Robe," having to do with a study which you conducted of European courts in relation to American jurisprudence?

A Yes sir.

Q Have I handed you a copy of the book to which you refer?

A You have.

Q Will you state briefly the various subdivisions of that book, Judge, as to the different studies you made?

A Well, after the foreword, the first subject matter is Algiers. That goes all the way through - - -

MR. HOPKINS: Excuse me, Judge.

May I make an inquiry? Are you going to put that book in evidence?

MR. HUNT: I had intended to, if there's no objection.

MR. HOPKINS: All right. No objection at all.

MR. HUNT: Thank you.

BY MR. HUNT:

Q Go ahead, Judge.

A That goes all the way from the smallest court in the land, personal injuries; divorce; divorce proceedings; ground for divorce; the attire of the judge; and the next subdivision, Italy, and that covers practically the same subject matter.

The next is Switzerland; the next is Germany - - - that is, West Germany, that's not East Germany; the next is England; and the next is France.

MR. HUNT: We offer the book in evidence.

MR. HOPKINS: No objection.

BY MR. HUNT:

Q Judge, I hand you a pamphlet entitled "Oaths and Standard Charges to Jury in Civil, Eminent Domain and Capital Cases in Florida," a reprint of an article published in the Miami Quarterly, Law Quarterly, for February, 1953, and I ask you whether or not you collaborated in the preparation of that pamphlet?

A I did. There was a definite need to bring up to date and modernize oaths and jury charges in all types of cases in Florida, and with the assistance of Mr. Justice Paul D. Barns and Gerard Ehrich, a member of the Florida Bar, this was finally completed and printed and distributed to the members of the Bar, who were interested in applying and having the same.

It is now used as standard equipment in the Courts of the Eleventh Judicial Circuit.

MR. HUNT: We offer this pamphlet in evidence.

SENATOR CONNOR: Mr. Chief Justice - -

CHIEF JUSTICE TERRELL: Senator Connor.

SENATOR CONNOR: I recognize that I am just a lay member of this Court, but I fail to see the relevancy of what the "Wig and Robe," a book written, and this last report, has to do with this impeachment trial.

I just wonder if it's not - - - it's irrelevant, and if we're not wasting a lot of time of this Court in connection with matters of that kind.

CHIEF JUSTICE TERRELL: This is a book - - -

SENATOR CONNOR: I don't mean to be discourteous, but it just appears to me that that's the way it is.

CHIEF JUSTICE TERRELL: There was no objection to the admission of the book, Senator Connor; it's the result of Judge Holt's observations in traveling in different courts in Europe. I remember, he sent me a copy of it, and I read it when it came out. I don't know how many members of the Court have had an opportunity to read it, but it's been admitted - - - offered in evidence, and the other side had no objection.

SENATOR DICKINSON: Mr. Chief Justice, I think, in all deference to Senator Connor, I do look upon it with a great deal of admiration, but I see no relevancy between the book and this impeachment trial, and I think that other members of the Court probably feel the same way.

CHIEF JUSTICE TERRELL: I have a little bit of hesitation to overrule an objection from a member of the Court. I'll put it to the Court.

All in favor of admitting this book in evidence, let it be known by saying "aye." Opposed, "no."

The "ayes" have it; the book is admitted.

Whereupon, the instruments were received and filed in evidence and marked Respondent's Exhibits 13 and 14, respectively.

BY MR. HUNT:

Q Judge Barns - - - pardon me, Judge Holt, did you, on or about June 6, 1955, have an occasion to purchase a Jaguar automobile for your brother?

A I did.

Q Will you state the name and residence of your brother?

A James F. Holt, Nashville, Tennessee.

Q Now, what negotiations, if any, led up to that purchase?

A It was sought to be determined whether a discount could be procured, and I talked with Mr. Whiteside about it, and I think he called up the dealer and said, "Sharpen your pencil," and I went out there, and they told me that they had five or six Jaguar automobiles of a discontinued model, XK-120 was the name of the model. It wasn't fast enough to compete with the other cars; so, they were discontinuing its production, and they were left with these XK-120's on their hands, and I was quoted a price of \$2,750, which was about \$400 or \$500 less than the list price, which was \$3,200, and also because I was purchasing the car for cash, and did not have any trade-in, they let me know that I was more entitled to a discount than one who came with a second hand car to trade in on the purchase.

Q Well, did you select the car and conclude the purchase on your brother's account - - -

A After - - -

Q - - - of that Jaguar?

A After conferring with them, I called him and told him to send a check down for \$2,750, which he did. I took it to the Wa-Co Motors and gave it to them, and I took delivery of the car.

Q Was it later delivered to your brother, or did he come down here and get it, down to Miami to drive it back to Nashville?

A I broke it in for him for three or four weeks, and he flew down here and drove it back to Nashville.

Q Now, did you, on or about July 9, have occasion to purchase a second Jaguar for your own family?

A Yes, I did.

Q What events or negotiations led up to the purchase of that Jaguar?

A Practically the same thing as to the first Jaguar.

Q Did you again call Mr. Whiteside to see if he could get you the second Jaguar at the same price - - -

A Yes sir, I did.

Q - - - as you had obtained for the first?

A Yes sir.

Q And did you eventually procure the Jaguar at the same price?

A I did, and because I was paying cash for it, and did not have an old car to trade in on it.

Q Did you borrow the funds with which to purchase that Jaguar, or - - -

A I borrowed the funds.

Q - - - otherwise?

A I borrowed the funds, yes sir.

Q From whom did you borrow them?

A Mr. Sid W. Langer.

Q Who was Mr. Langer?

A He was an old friend of mine. I used to represent him before I went on the Bench.

Q What business is he engaged in, Judge Holt?

A He is engaged in several businesses, but mainly the bottled gas business.

Q Now, Judge Holt, in the matter of requesting Mr. Whiteside to see if he could get a shaved-down price for you on the Jaguars, did you have any evil or corrupt or wrongful motive in mind?

A None at all. I just knew that he represented Wa-Co Motors.

He told me they had this lot of cars which had to be sold, because the new models were coming out immediately. He said he thought he could get me a discount, mainly because they wanted to get rid of the cars.

Q Did Mr. Whiteside go out to Wa-Co Motors, as far as you know, or use the telephone to suggest that they sharpen their pencil?

A As far as I know, he used the telephone. He didn't go out there with me.

Q Judge Holt, as presiding judge of the Court, did you feel obligated to Mr. Whiteside, financially or otherwise, for having used the telephone to get you a shaved-down price on the cars?

A I did not.

Q Has he ever, directly or indirectly, indicated that he considered that you were obligated to him for that telephone service?

A No sir.

Q Have you ever in any way favored Mr. Whiteside, or his firm, as a practicing attorney, or as practicing attorneys before you because of the extension of this favor to you by Mr. Whiteside?

A I have not.

Q Now, Judge Holt, with respect to another automobile, a Plymouth, on which you took delivery on or about January 27, 1955, will you state to the Senate what transpired between you and Mr. Gersten, leading up to the acquisition of that car?

A I told him the trouble I was having with my son's car - - -

Q Well, what was the trouble?

A It had gotten in shape where it cost about \$25 a week to keep it repaired and running.

Q Where was that car at that time?

A That car was at Chapel Hill, and it was a Nash automobile; and then he told me that Plymouths were selling out their 1954 models, were anxious to get rid of them, and that he could probably get a discount, and he would be glad to loan me the money for the purchase of the car.

We discussed it on several occasions, and finally - - - I finally decided to take up his offer, and I called my son and told him to sell the Nash automobile.

Q Had your son at that time, or did he later canvas the used car lot market in the vicinity of Chapel Hill, to determine what could be procured for the car?

A Yes sir. He told me he could get at least \$400 for the car, and that's all.

Q So then, what happened prior to the time you and Mr. Gersten went to the automobile company, Christopher Motors, and took delivery of the car? Where did you see Mr. Gersten on that day, if you did see him?

A I think I saw him in my office, and we figured out the purchase price of the car, which I recall was \$2,185, and since I had been advised of the possible price that the Nash would bring, subtracted \$400 from that sum, and gave him a note for the balance, of some \$1,785, I think it is. I'm not certain about that.

Q Was that note prepared by your secretary?

A It was.

Q And was it prepared at the sum of \$1,785, in anticipation of the early yield and delivery to Mr. Gersten, on account, of this \$400?

A It was, and it happened, because after the car was purchased, my wife took it to my son - - -

Q Mrs. Holt drove it to North Carolina?

A Yes sir, and she came back with the money, deposited in our bank account, and sent Mr. Gersten a check for \$400.

Q I believe the evidence before the Senate indicates that he received that check and deposited it to his account, with Christine Holt's name set out opposite, is that correct?

A Correct. She signs all the checks in our family.

Q Now, then, after making out the note, did Mr. Gersten go get his car and later call for you and go out to Christopher Motors, or how was that arranged?

A He got his car, and we both went out to the Plymouth agency.

Q What transpired at the Plymouth agency?

A He paid the money to the man.

Q Did you look at the car first?

A We looked at the car, and they didn't have the right color, and I think they had to call up McGahey Motors to get the right color - - -

Q McGahey Motors?

A Which is another Plymouth agency there.

Q Go ahead.

A The money was paid, bill of sale executed in the name of my wife.

We went out to get in the car, and it wouldn't start.

Q What happened then?

A Had to have some mechanical work done on it before we could leave.

Q And who drove the car away?

A I did.

Q Do you recall whether or not your wife undertook to drive the car north the next day?

A She did, the next morning.

Q Do you recall whether or not it was necessary for her to return the car to Christopher Motors for additional mechanical work?

A It was. She couldn't even leave until around noon; they had to do some more work on the car.

Q Did Mr. Gersten pay that money in cash to the Plymouth agency?

A He did.

Q In your presence?

A He did.

Q Did the bill come out precisely \$1,785, Judge, or were there additional charges for license, and so forth?

A Well, there were additional charges for license, which I paid.

Q And the title to the car was taken in Mrs. Holt's name?

A That's correct.

Q Now, the note you gave Mr. Gersten, was that an interest-bearing note, at six per cent?

A It was.

Q Did you later, in two or three separate payments, fully pay and discharge that note?

A I did.

Q Including interest?

A That's right.

Q Did you, at the time of accepting Mr. Gersten's suggestion, and permitting him to advance the funds on a loan basis for the acquisition of the Plymouth, have any thought or idea other than of repaying the note in full, according to its terms?

A None.

Q Did you have any thought or intent of using or bartering away any of the official functions or powers of your judicial office in Mr. Gersten's direction?

A I did not.

Q Was there anything hidden or secret about the transaction?

A Nothing.

Q As a matter of fact, when you and Mrs. Holt were requested to appear before the investigators of the Bar, I'll ask you to state whether or not the both of you willingly appeared without subpoena?

A We did.

Q Before the investigators?

A We did, and voluntarily gave them the information.

Q Did you give them all your personal banking records?

A We did that before we even appeared before them, gave them authority to go to the bank and get up all our banking records, go to my accountant to check all of my income tax returns, and I did that by telephone from North Carolina, authorized them to look into a safety deposit box, which I thought I owned, but I didn't; it was in my wife's and daughter's names, but my daughter took them there personally. They examined the contents of the box.

Everything was voluntarily and freely given to the investigating committee of the Florida Bar.

Q Was it your testimony which disclosed the loan transaction that you had with Mr. Gersten?

A That's correct.

Q Was there - - -

A They didn't know anything about the purchase of the Plymouth or the borrowing of the money until I told them myself.

Q Did you, likewise, inform the Bar investigators as to all facts surrounding the purchase of the two Jaguar automobiles?

A I did personally tell them every fact concerning it, because they would never have known anything about either one of the Jaguar automobiles at all if I had not told them freely and voluntarily, because I had nothing to hide.

Q Did you, likewise, disclose to the Bar your entire relationship with both Mr. Whiteside and Judge Prunty?

A I did, and I understand Mr. Whiteside voluntarily gave up his whole financial records to the investigators for the Florida Bar.

Q Did you make this loan transaction with Mr. Gersten with any evil, dishonest or wrongful motive or intent in any way, either directly or indirectly?

A I did not.

Q Some months later, Judge, following the purchase of the Plymouth, did you have occasion to appoint Mr. Gersten as guardian ad litem of an estate of more than \$3,000,000 in value?

A I did.

Q What were the circumstances, if you recall them, which led to that appointment?

A If I can recall, this very wealthy man, who was recipient of a trust of some \$8,000,000 in Pennsylvania, and owned about \$4,000,000 worth of property in Florida, was stricken with some sort of a blood disease that rendered him practically unconscious - - - I've forgotten the name of the disease - - - and a petition was filed before me to appoint a curator for him, and I appointed his wife as curator, and then the attorney suggested that it was necessary to appoint a guardian ad litem to represent the incapacitated man, that he needed a man who was capable of doing a lot of leg work, and so, I appointed Mr. Gersten.

They proceeded to investigate the - - -

Q At that point, Judge, before you appointed Mr. Gersten, do you recall that you appointed some other lawyer first?

A Yes, I think I appointed Mr. John G. Thompson, of the Smathers law firm in Miami, and as I told the Senate this morning, Mr. John G. Thompson has always been a good friend of mine, but was unable to serve, and in his place and stead, I appointed Mr. Gersten.

Q Now, some of the assets of that property were located in Hendry and Collier Counties, were they not?

A And Okeechobee County; had some vast cattle ranges, and I don't know how many hundreds of head of cattle there were to be cared for.

Q To the best of your knowledge, did Mr. Gersten perform his duties as guardian ad litem in that case properly and efficiently?

A He did, and when I discharged him, and ordered a fee of \$1,000 paid to him for his services, the attorney and his client complimented Mr. Gersten on his services, and told me that if they ever needed a guardian again, or anything like that, they would like to have Mr. Gersten again.

Q Were they thoroughly satisfied with his services and the fee which you fixed for him?

A They were.

Q Did you, in the fixing of that fee, have any motive, or entertain the intent that the fee would be applied to your note, or have anything to do with it?

A It never entered my mind.

Q I believe that both prior to the making of the loan and subsequent thereto, you had also given a few masterships to Mr. Gersten, had you not?

A In the Ainsley Building.

Q Would you explain to the Senate what you mean, "in the Ainsley Building?" What was your practice in connection with these - - - in regard to these masterships?

A When the parties agreed upon a Master, I asked where the attorney for the Plaintiff had his office, and I always tried to appoint a lawyer in his own office building so as to be - - - make it convenient for him and his client, rather than have them traipse all over town to somebody else's office, some distance away.

So, whether it was the Ainsley Building or the Seybold Building, the Ingraham Building or the duPont Building, it didn't make any difference; if there were lawyers in there, they were appointed.

MR. HUNT: We're waiting to get some exhibits, Mr. Chief Justice.

BY MR. HUNT:

Q Judge Holt, referring to State's Exhibit Number 1, or House Managers' Exhibit Number 1, will you please examine the document and state what it is?

A This is the demand note, in the sum of \$1,785, dated January 28, 1955, payable to J. J. Gersten, with interest at six per cent, and signed by me, and marked "paid in full. April 16, 1957. Joseph J. Gersten."

I don't know what these marks on the back of this are; and that's the first time I've seen that note in over a year, I think.

Q Did you first give it to the Bar examiners?

A Yes sir.

Q The note bears the date of January 28, 1955?

A Correct.

Q I now hand you a check, signed "Christine F. Holt," payable to "J. J. Gersten," dated February 7, 1955, in the sum of \$400, being Managers' Exhibit Number 4, and ask you if this check represents the first payment made toward the Gersten loan of \$2,185?

A It does.

Q Does that \$400 represent the proceeds from the sale of the car in North Carolina?

A It does.

Q I hand you, next, canceled check, signed, "Christine F. Holt," payable to "Joe Gersten," in the sum of \$500, dated October 11, 1956, House Managers' Exhibit Number 7, and I'll ask you to state whether or not that represents a payment upon the note obligation?

A It represents a payment of \$500 on the note obligation, October 11, 1956.

Q Does it bear Mr. Gersten's endorsement?

A It does.

Q I hand you check, dated April 11, 1957, payable to "Joseph J. Gersten," in the sum of \$1,285, signed by "Christine F. Holt," with the notation "loan paid in full," and I'll ask you to state what that check represents?

A This check represents the balance of the principal of the note of \$1,285, but at that time - - - and which was duly endorsed by Mr. Gersten - - - at that time represented the principal paid in full, but not the interest.

Q Was this check mailed to Mr. Gersten, together with a letter of transmittal, requesting him to figure the interest and notify you?

A It was.

Q Did he do that?

A He did, the next day.

Q I hand you check, dated April 17, 1957, payable to

"Joseph Gersten," in the sum of \$221.15, signed "Christine F. Holt," bearing the notation, "interest on note paid in full, April 11, 1957," and I'll ask you to state what that check represents?

A That represents the full amount of the interest due on the note, and retired the obligation in full, as to principal and interest, and duly endorsed by Joseph Gersten.

Q I hand you House Managers' Exhibit Number 2, which is brief, and will ask that you read the body of it to the Senate, being an order signed by you.

A This is in the curatorship of E. Vose Babcock, Jr., which I mentioned awhile ago, titled:

"Order Substituting Guardian Ad Litem

"The Court having appointed John G. Thompson to be guardian ad litem for E. Vose Babcock, Jr., and for the minor children of the said E. Vose Babcock, Jr., and having set a final hearing at 10 o'clock a.m., Monday, March 28, 1955, and the Court being advised that John G. Thompson is out of the city and not available to serve under the circumstances stated, it is

"ORDERED, ADJUDGED AND DECREED that" - - - and this is written in by me - - - "J. J. Gersten, an attorney practicing law in this Court be and he is hereby substituted as guardian ad litem in the place of said John G. Thompson.

"DONE AND ORDERED this 25th day of March, 1955."

Q Judge Holt, did you make that loan in complete good faith, and did you retire it in complete good faith with your own funds?

A I did.

Q Now, Judge, there's been testimony relating to a trip taken by you and Mrs. Holt, Judge and Mrs. Grady Crawford and Mr. and Mrs. Joe Perkins, in the year 1953, during the pendency in your Court of a case named "Eagle Star Insurance Company vs. R. Paul Weesner and Resort Air Lines."

I would like for you to tell the Senate, in your own words, how that trip originated, developed, and everything that you recall with respect to tickets, money, and all transactions in connection with it, from the beginning?

A Well, the six of us were at several social occasions, and the talk on those occasions was about a possible trip to Haiti, since Judge Crawford was very anxious to return to that area, where he had served in the Navy during the war, and where Mr. Perkins had been on many occasions, representing his client in the purchase of the Riviera Hotel; and several others were considered in the party, but the final party was, as you named, the six of us; and I think it was Judge Crawford or Mr. Perkins - - - I don't know which one - - - arranged for the purchase of the tickets on Pan American Airways in Haiti to save a certain tax which was in existence at that time.

It was an agreement for each one to pay their own expenses, and whoever bought the tickets was repaid by the others, and I think our entire trip took up almost ten or eleven days; and we would pay - - - one couple would pay for a certain place, another one for another place, and then we would settle up afterwards.

Q You settled up from time to time, as the trip progressed?

A That's right.

Q To your knowledge, did either of the three of you pay any more or any less than the other two?

A We may have, a dollar or two, but that's about all.

Q Effort was made to keep it in substantially even balance - - -

A That's correct.

Q - - - is that correct?

Do you recall what favors were granted to the party, if any, at the Weesner hotel, in Haiti?

A None, except we were welcomed by the manager, and flowers were sent to the room, and that's about all.

Q Was that a small hotel, Judge?

A A small hotel, and I don't consider that the V.I.P. treatment.

Q Was it a wooden hotel?

A I know it was extremely hot in August, and I wouldn't advise anybody to go to Haiti in August.

Q Well, did you take side trips from Haiti?

A Yes sir, we went up to Cap Haitien.

Q What is Cap Haitien?

A Cap Haitien, I think, is - - - I don't know, I may be wrong about this, it may be one of the seven wonders of the world, where this negro dictator, through the use of pure human labor, built this tremendous fortress and castle on top of a mountain nearby, above the palace which he occupied, and there is a fable - - - I don't know how true it is - - - that he was trying to impress some foreign dignitary with his control of his troops, and he would order them to march, and they would march over a great abyss to their death to show his dictatorial authority.

Q Well, it was a place that sightseers often visited, is that correct?

A Yes sir.

Q A place of interest?

How do you spell "Cap Haitien"?

A C-a-p H-a-i-t-i-e-n.

Q Is it a small town?

A Yes sir, it's a small town.

Q Did you take any other side trips?

A We went back to Haiti, the capital of Haiti - - - I've forgotten the name of it - - - Port-au-Prince - - - and then we, with a little additional money, we flew to Puerto Rico, and then, the next morning, we flew over to one of the Virgin Islands, St. Thomas; stayed there a couple of days, then came back to Puerto Rico and stayed a day or so, and then went on home.

Q Do you remember the approximate cost of your share of those tickets?

A As I recall, it was around \$200, or something like that. I don't know the exact figure.

Q Do you recall the approximate over-all cost of the trip?

A About \$400 or \$500.

Q I'll ask you to state whether or not discussion of any business or legal matters was undertaken by anyone in that party?

A None at all.

Q Did your wives accompany you wherever you went?

A They did.

Q Were you aware that at the time you took the trip, on August 4, an action was pending in your division of court, in which Mr. Weesner was a party?

A I was not.

As a matter of fact, I didn't even know Mr. Weesner.

Q Did Mr. Perkins ever mention it to you?

A He did not.

Q Did Mr. Perkins undertake to pay any part of your fair share of those expenses on that trip?

A He did not.

Q When did you learn that there was such a suit as "Eagle Star Insurance Company vs. R. Paul Weesner"?

A We got back here around, about the middle or latter part of August, and I only found out about the Weesner suit around the latter part of December of the same year.

Q As a matter of fact, had not another Circuit Judge entered an order or two in connection with the pleadings in the case?

A Yes, he had. Judge Wiseheart, my alternate, had entered an order or two.

I don't even know the purpose or the extent of those orders either.

Q Do you recall when the matter was first brought to your attention? Was it the application for setting it down for a hearing, or for entry of a final decree, or do you recall without reference to the file?

A I never know when a case is set down before me, because that is done by my secretary. The only time I know about it is when I walk in on the morning or the afternoon, and they are there waiting to hear it, and I check with my secretary, with her book.

The first time I knew about the case was when it was set down for final hearing, and they walked in to argue it.

Q What were the issues, as you recall them, Judge?

A As I recall them, it was just a set-off, involving the ownership of an airplane which was being - - - title to which was being litigated in the Federal Court, and an airplane had crashed, and whether or not Mr. Weesner was entitled to the insurance money, and he had given them a mortgage on another plane; and the whole suit was for the purpose of having a set-off on the insurance claim and the mortgage, which was done.

Q You did adjudicate such a set-off?

A I did. The Defendant offered no testimony, very little argument. As a matter of fact, I don't think the hearing took over twenty minutes.

MR. HUNT: I've sent for the file in that case, Judge.

Where is the file?

MR. SUMMERS: He's trying to locate it now.

SENATOR JOHNSON: Mr. Chief Justice - -

CHIEF JUSTICE TERRELL: Senator Johnson.

SENATOR JOHNSON: - - - while they're looking for that file, I move the Senate stand in a ten-minute recess.

(The motion was seconded from the floor)

CHIEF JUSTICE TERRELL: Without objection, so ordered.

Court will be in recess for ten minutes.

Whereupon, the Senate stood in recess from 2:45 o'clock, p.m. to 2:55 o'clock, p.m.

CHIEF JUSTICE TERRELL: Order in the Court. The Chair declares a quorum present.

BY MR. HUNT:

Q Judge Holt, you have before you - - -

CHIEF JUSTICE TERRELL: Let's have order in Court.

BY MR. HUNT:

Q You have before you the Court file of the Eagle Star-Paul Weesner insurance case?

A I do.

Q Will you refresh your recollection from the file, and state to the Senate what proceedings were had before you at the time of the motion for final decree?

A Looking at the transcript of the testimony - - - the speaker system seems to have gone dead.

MR. HUNT: Shall we try to proceed without the sound?

SECRETARY DAVIS: I think there's a repairman on the way.

CHIEF JUSTICE TERRELL: Secretary Davis advises that a repairman is on the way.

MR. HUNT: Let's see if we can make ourselves heard without it.

BY MR. HUNT:

Q Do you have before you the transcript of testimony taken before you at the final hearing in that case?

A I have.

Q Will you state whether or not the Defendant or Defendants were represented by counsel, and if so, by whom?

A The Defendant was R. Paul Weesner, represented by Jephtha P. Marchant and Joseph A. Perkins.

Q Who represented the Plaintiff?

A The Eagle Star Insurance Company was represented by Arthur S. Clark, Jr.

Q Was he in Court?

A Yes sir; and it reflects that all he did was enter a stipulation signed by the parties, agreeing that the note and mortgage were valid, and the stipulation was introduced in evidence, as well as the note and the mortgage, and then he rested.

Q Did he present any testimony?

A He presented nothing except the stipulation and the note and mortgage.

Q There was a counterclaim pending in connection with that suit, filed by the Defendant, is that correct?

A There was.

Q Was the amount of the counterclaim, to the penny, the same amount as was claimed by the Plaintiff?

A Exactly. Let me see what the amount is.

\$81,000.

Q Did you later enter a decree on the counter-claim?

A I did, after they took only ten pages of testimony.

Q Who submitted the testimony?

A The Defendant, and the Defendant alone.

Q Now, upon the entry of a decree by you in that case, was it appealed to the Supreme Court of Florida?

A It was.

Q And what happened to it in the Supreme Court?

A It was affirmed, as I recall, per curiam; that means "without opinion."

Q Will you state to the Senate, Judge Holt, when you first met Paul Weesner?

A It was either - - - I think I first met him at the hearing in this suit, first time I ever saw him.

The second time I ever saw him was when I was in a barber shop in Miami Shores Village, and he walked in with his son, and he had to introduce himself to me. I did not know him.

Q I'll ask you to state whether there was any connection whatever between the pendency of that suit and the group party which you and two other couples took to Haiti and Port-au-Prince?

A None whatever.

Q Did you, by the entry of that decree, which was sustained and affirmed by the Supreme Court, have the motive or intent of bartering or granting any favor or power of your

office to Mr. Weesner in return, or in consideration for any favor granted - - - which he may have granted in connection with the party - - -

A No sir - - -

Q - - - and the trip?

A - - - and he did not grant any favor whatsoever.

Q I had reference to the so-called V.I.P. treatment.

Of what did that consist, Judge Holt, getting back to Port-au-Prince briefly?

A It didn't make you feel like a V.I.P., Judge. We were just met by the manager and shown to your room, and you saw some wilted flowers on the dresser, and that's about all.

Q That's all? Everything else was on the bill, is that correct?

A And we paid it.

Here is the order from the Supreme Court, affirming the judgment. It's in the file.

Q Does it say "per curiam"?

A These mandates never mention what kind of opinion is rendered.

Q There's no opinion in the file?

A No opinion.

Q If there was an opinion, it would have accompanied the mandate, would it not?

A Yes sir. The Supreme Court always sends down a copy of the opinion with a mandate.

Q Now, referring for a moment back to the Babcock matter, in which Mr. Gersten acted as guardian ad litem, I'll ask you to state on what date a curator was appointed in that case?

See if you find yellow sheets of paper.

A Thank you.

Order Appointing Curator was made on the 28th day of March, 1955 - - -

Q Was that entered by you?

A It was entered by me the same day the bill of complaint - - - the petition was filed.

Q Now, will you refer, later on down, to an order entered by Judge Wiseheart last year.

A This order was entered by Judge Wiseheart on the 14th day of November, 1956.

Q Will you state what fees were awarded to the curator?

A This order by Judge Wiseheart allowed the wife of the incompetent - - -

Q Who was the curator?

A Who was the curator, the sum of \$35,000; and it also ordered that the wife of the incompetent, Mrs. Babcock, be allowed the sum of \$5,000 in addition to the \$2500 heretofore paid and allowed to him - - -

Q You said "the wife" of - - -

A Yes, it's a misprint. It should be to "her."

Q Or to the attorney? Which is it?

A To the attorney, to Roscoe Brunstetter - - I'm sorry - - - \$5,000, which is in addition to the sum of \$2500 heretofore allowed him as compensation for his services in this estate.

Q Do the files reflect any kind of contest or litigation of any kind?

A None whatsoever.

Q Now, Judge Holt, subsequent to the final decree in the Eagle Star Insurance Company case, have you ever accepted

or ever been tendered any kind of a gift or favor or remuneration of any type, direct or indirect, from Mr. Weesner, or anybody in his interest?

A I have not.

Q Did you, during that trip, or at any time subsequent thereto, receive any type of gift or favor from Mr. Weesner's attorneys, or either of them?

A I did not.

Q Was there, in your professional judgment, any other conclusion to be reached in the case other than the one you reached and entered in the form of the final decree?

A None, and the Supreme Court agreed with me.

Q Now, the Managers on the part of the House have introduced in evidence certain Court files which pertain to some five or six receivership actions in which Mr. Kurlan was appointed as receiver. Those cases are generally referred to as "Belmont Park Motel," "The Variety Hotel," "The Salem Inn," the "Flame Restaurant," and "Ocean Villas."

I'll ask you to state, taking up first the Belmont Park Motel matter, which was a suit filed, or resulted from a complaint filed by First Federal Savings & Loan Association, and I believe, consisted of three consolidated foreclosures of mortgage, and ask you to state what independent recollection, if any, you have of that case?

A With reference to what, Judge?

Q With reference to the appointment of the - - - one or more receivers?

A There were three foreclosures filed, as was testified by Mr. Walker the other day. There were three different - - - the mortgages on three different sets of property; and two of them fell in my division, and the second - - - the third one fell in Judge Wiseheart's division, and under the rule of Court applicable then, the one that fell in Judge Wiseheart's division was assigned to mine so that I could take care of all of them, rather than have two Judges doing the same thing on the same cases.

SENATOR SHANDS: Mr. Chief Justice - -

CHIEF JUSTICE TERRELL: Senator Shands.

SENATOR SHANDS: - - - one of the Senators has an emergency call, and it will require about five minutes for him to make the call. It's absolutely necessary for him to make it.

I move that we recess for five minutes, to give him an opportunity to make the call.

CHIEF JUSTICE TERRELL: And before we recess, Secretary Davis advises that the sound amplifier has blown a fuse, and that they should have another one in about fifteen minutes.

SENATOR SHANDS: All right, sir.

CHIEF JUSTICE TERRELL: We'll take a five-minute recess.

Whereupon, the Senate stood in recess from 3:20 o'clock, p.m. to 3:25 o'clock, p.m.

CHIEF JUSTICE TERRELL: Order in Court. Without objection the Chair will declare a quorum present.

BY MR. HUNT:

Q Judge Holt, without reference to dates or technical events, do you have independent recollection of the application before you by the law firm of Blackwell, Walker & Gray for the appointment of one or more receivers in connection with the foreclosures against the Belmont Park Motel property?

A Yes, I have.

Q State what you recall?

A He came down and told me about the suits being filed, and said that the place was halfway built; that they were anxious to get some receivers appointed right away, so they could complete the building and have it ready for the winter season, so that some income could be derived therefrom.

He explained that there were approximately twenty-one or

twenty-three buildings in the project; that they had their own sewage disposal plant, and I think they had some \$600,000 or \$800,000 in money loans that they were very much concerned about - - -

Q Judge Holt, you heard Mr. Walker's testimony on that matter?

A I did.

Q Did he correctly state the facts?

A He did; and he asked me for the privilege of naming - - - he wanted two receivers named, and asked me for the privilege of allowing him to suggest one man as receiver because he was not only a lawyer, but he was an engineer.

Q Whom did he suggest?

A Mr. J. Didrence, D-i-d-r-e-n-c-e.

Q Did you act upon that suggestion, and appoint Mr. Didrence as one of the receivers?

A That was agreeable to me, because I knew him, and he was a member of the Bar in good standing; and then he suggested that he wanted another receiver who was active and able, and had the time to devote to the entire project, and asked me if I knew anyone who could do that, and I suggested L. J. Kurlan, and both of those gentlemen were named.

Q Now, this appointment, I believe, was entered on or about January 18, 1954.

State to the Senate what you had known of Mr. Kurlan prior to that time, and any and all information you had at that time, pertaining to Mr. Kurlan?

A I had known Mr. Kurlan for some time prior thereto, since the ending of the war. He was in the Navy during the war, and was in the active reserve then, and still is - - -

Q What rank does he now hold? Do you know?

A He now holds the rank of Captain in the United States Naval Reserve.

I had met him at the Saxony Hotel, where he was the adviser on operation of the food, beverage, and almost the entire operation of the hotel, and he was quite familiar with all of its ramifications.

Q Do you know whether or not Mr. Kurlan was a graduate of any university of this country?

A Yes sir, he is a graduate of the University of Pennsylvania, with a degree in business administration.

Q Now, you then entered an order, appointing Mr. Didrence and Mr. Kurlan in that case?

A I did.

Q To your knowledge, did your receivers in that case perform to the entire satisfaction of the parties?

A They did. They completed the construction of the units necessary, secured approval of the sewage disposal plant, which was something new at that time, and had it open and ready for occupancy and almost filled with tenants within a reasonable time after their appointment.

Q Judge Holt, in connection with that sewage disposal system, had that construction taken place in rather low-lying ground, on the bay side of Collins Avenue?

A It had.

Q Was the elevation, or lack of elevation, one of the problems in solving the sewage disposal problem?

A It was lack of elevation, as I recall.

Q I believe you heard Mr. Walker testify that he himself, with the approval of the First Federal, fixed all the fees in that case, and paid all the fees in that case, and so far as he knew, you knew nothing about that. Is that true?

A That is entirely true, and I never signed an order setting or approving any fees in that case.

Q As a matter of fact, upon the initial application to you,

do you recall whether or not Mr. Walker exhibited a stipulation signed by all Defendants and attorneys, providing for the foreclosure and the appointment of a receiver?

A He did. It was a stipulated matter all the way through, and Mr. Walker also advised me that he had filed a previous foreclosure, and they asked to - - - that it be dismissed, that they could probably raise the money within a week or ten days, and that they had not. He had sat down and talked with them, and they had agreed, because of the unfinished condition of the property, that for the best interests of everyone, that these receivers should be appointed. As it was, it was a dead loss to everyone.

Q Did you have any reason whatever for selecting either Mr. Didrence or Mr. Kurlan as receiver in that case except your honest opinion that the appointment of those gentlemen would best serve the matters before you and the litigants involved?

A I had confidence in both of them, and I hoped they would do a good job, and they did.

Q Now, with respect to the - - - I believe, Judge Holt, on or about April 15, 1954, you appointed Mr. Kurlan as receiver for the Variety Hotel, located at Miami Beach?

A Yes sir.

Q Do you have an independent recollection of that property, and your judicial act in that connection?

A Yes, I do.

Q Do you recall that you entered the order appointing Mr. Kurlan in the evening, at a time when you were the regularly-assigned emergency Judge?

A I would have no such recollection unless I could look at the file.

Q Do you recall or not that it was presented to you in the evening.

SENATOR BRANCH: Mr. Chief Justice - -

CHIEF JUSTICE TERRELL: Senator Branch.

SENATOR BRANCH: - - - members of the Court, I'd like to call to the attention of the Senate, Rule Number 7, on Page 3. That's the special rule that was adopted by this Senate on Monday, July 8, pertaining to the impeachment rules of this Senate.

CHIEF JUSTICE TERRELL: Will you read the rule, Senator Branch?

SENATOR BRANCH: "There may be admitted to the floor of the Senate, when sitting as a Court of Impeachment, only the Chief Justice of the Supreme Court of Florida and his assistants, the Senators, the Secretary of the Senate and his assistants, the Sergeant-at-Arms and his assistants, the Defendant and his attorney or attorneys, the House Managers and their attorneys, authorized members of the press, necessary Court Reporters, and witnesses called to testify in the case."

Mr. Chief Justice and members of the Court, it is my interpretation of that rule that members of the press are supposed to sit at the press table. I want to call the attention of the Senate to that fact.

CHIEF JUSTICE TERRELL: Are the members of the press all at the press table now, Senator Branch?

SENATOR BRANCH: As far as I know, yes sir.

CHIEF JUSTICE TERRELL: So, the rule is complied with.

Proceed, Mr. Hunt.

BY MR. HUNT:

Q Judge Holt, do you recall that Mr. Morris Berick's law firm handled that case on behalf of the Plaintiff?

A Yes sir, I do.

Q Did you hear his testimony before the Senate?

A I did.

Q Did you hear him testify that Mr. Kurlan was paid a receiver's fee of \$5,000 on or about May 28, 1954, with the full approval and consent of his client?

A Yes sir, and I recall his client appearing before me in my Chambers and repeating the same statement.

Q Do you recall whether or not the client had, himself, resided in the property during Mr. Kurlan's receivership?

A He had, and observed Mr. Kurlan's work.

Q Had the fee of \$5,000 been fixed and approved and agreed to by the Plaintiff, his attorney and Mr. Kurlan before the matter was ever brought before you?

A Yes sir.

Q Now, I believe you entered a summary judgment in that case on May 28, 1954, in favor of the Plaintiff, which was later appealed to the Supreme Court of Florida, is that correct?

A That's correct.

Q Upon the entry of that summary judgment, is it correct that there was no supersedeas filed in the case?

A No sir, and there was no objection from the Defendant as to the amount of the receiver's fee. The only objection the Defendant made was that he didn't like the summary judgment, which he appealed to the Supreme Court.

Q And did the Supreme Court, on August 15, 1955, in an opinion written by Justice Campbell Thornal, uphold and affirm your ruling on the summary judgment?

A The Supreme Court did affirm me.

Q From your recollection, was the appointment of a receiver, or the amount of the compensation in anywise objected to or raised?

A None whatsoever.

MR. HUNT: And for the benefit of the Senate, the case is recorded in - - - the Supreme Court opinion, is reported in 81 Southern 2d 719.

BY MR. HUNT:

Q Now, Judge Holt, you heard the testimony of Mr. Hackney, the Plaintiff's attorney in the two receivership cases referred to before the Senate as the "Salem Inn" and the "Flame Restaurant," did you not?

A Yes sir.

Q Do you recall having appointed Mr. Kurlan, October 25, 1954, as receiver in the Salem Inn case?

A If that's the correct date, I do. I have no means of checking the date, Judge Hunt.

Q Do you recall whether or not the parties endeavored to refinance the operation, and later attempted to sell its assets on the Court House steps?

A They did.

Q And that the parties themselves, at a later date, were able to stipulate for a dismissal of the case?

A That's correct.

Q Do you recall that Mr. Kurlan was paid a fee of \$1,000 by agreement of the parties, by which they evenly divided that amount and paid it to him?

A By agreement before the Court, as part of their overall agreement of settlement.

Q Did you have anything to do with establishing Mr. Kurlan's fee in that case?

A I did not.

Q Did you have any representation made to you as to Mr. Kurlan's conduct, as receiver, from the parties or their attorneys, except that he operated in an efficient manner?

A They were both very well pleased with his operation

of the Salem Inn which, incidentally, was known as the "Bucket of Blood."

Q That's the local designation of the old Salem Inn?

A Yes sir. When you went in there, it was a hard chance to get out alive.

Q Now, Judge Holt, about the time of the wind up of the Salem case, do you recall Mr. Hackney appearing before you with a complaint against the dominating management of the Flame Restaurant?

A Yes sir, I do.

Q Do you recall whether or not that matter was presented before you, as emergency Judge?

A I think it was. I - - - my memory was refreshed by listening to his testimony, but I couldn't state positively unless I looked at the file.

Q Do you recall whether or not Mr. Hackney, the Plaintiff's attorney himself, requested that Mr. Kurlan be appointed as receiver in the Flame Restaurant case?

A Yes sir, he did.

Q Did you thereupon appoint Mr. Kurlan to the receivership of the Flame Restaurant matter?

A I did.

Q Do you recall that Mr. Kurlan's receivership bond in that case was originally \$5,000, and later increased to \$20,000?

A Yes sir, I recall specifically that it was increased to \$20,000.

Q Now, I believe the receiver was discharged on or about the 15th - - - the 19th of January, 1956, according to my notation, having served approximately twenty-two days. Is that correct?

A Yes sir.

Q And that upon that occasion, you entered an order establishing Mr. Kurlan's compensation at \$2200?

A Yes sir.

Q Do you recall how that figure was arrived at?

A I don't recall exactly, except - - -

Q Do you recall who suggested \$2200 as a reasonable and fair compensation to be allowed Mr. Kurlan?

A The attorney for the Plaintiff, as I recall.

Q Mr. Hackney?

A Mr. Hackney.

Q He so testified here under oath before the Senate?

A I think he did.

Q Now, according to the record, at one stage of that case, it was - - - the matter was called for hearing before Judge Wiseheart on a motion for an order fixing supersedeas bond, and Judge Wiseheart, on the same date, entered an order denying the application for supersedeas.

Did you have any knowledge of that matter at the time it was handled?

A I did not, although it was perfectly proper to take the matter to Judge Wiseheart, as he is my alternate during my absence.

CHIEF JUSTICE TERRELL: Mr. Hunt - -

MR. HUNT: Yes sir.

CHIEF JUSTICE TERRELL: - - - Secretary Davis wishes the Court to be advised that the amplifying machine also blew the new fuse, and that he has a new amplifier on the way, that will be present soon.

THE WITNESS: I want to apologize, Your Honor, for blowing the fuse.

CHIEF JUSTICE TERRELL: I don't think it's quite related to you.

BY MR. HUNT:

Q Judge Holt, on one facet of the Supreme Court, or appellate proceeding, I believe the Court quashed a portion of a supersedeas order which provided for the payment at that time of Mr. Kurlan's fee.

Do you recall that situation?

A Yes sir, I do.

Q Do you recall that the Supreme Court held, in effect, that the matter of paying Mr. Kurlan's fee should be held in abeyance until the final wind up of the case?

A That's correct.

Q Was that done?

A Yes sir, it was.

Q Do you recall that the Defendant filed a motion for a remittance of the receiver's fee, and that there was an opinion and order entered by you, refusing to order the remittance at that time?

A Yes sir. In all fairness, I should be allowed to read the opinion which I rendered on that occasion, because it's been misconstrued.

Q Judge Holt, this order, this opinion and order, consists of four pages. Do you think you might refresh your recollection and then state to the Senate in your own words the essence of the order?

A No sir. It wouldn't be fair, according to the impression already made.

Q Very well. I'll ask permission for the witness to read this opinion and order.

A Do I have the permission?

CHIEF JUSTICE TERRELL: Yes, proceed to read it, Judge Holt.

THE WITNESS: This is "Opinion and Order.

"This cause is before the Court upon Defendants' motion for remittance of Receiver's Fee, and a proper consideration and disposition thereof requires a review of the record. On June 1, 1955, Defendants filed a motion pursuant to Supreme Court Rule 19, Paragraph 1, to fix the amount and terms of a supersedeas bond, to stay proceedings pending presentation and filing of a petition for certiorari to be filed pursuant to Supreme Court Rule 14, and pursuant to the discretion vested in this Court by Rule 19, Paragraph 1, said application for supersedeas was denied by an order entered in this cause, dated June 1, 1955. Thereafter, also pursuant to Rule 19, Paragraph 1, said Defendants applied to the Supreme Court to grant supersedeas, and on June 8, 1955, the Supreme Court entered an order, filed in this cause on June 10, 1955, and recorded on June 13, 1955, in Chancery Order Book 1188 at Page 384 of the Records of this Court in which it was ordered:

"\* \* \* that supersedeas be allowed in this cause upon petitioners' giving or causing to be given bond in the sum of \$20,000, the payee and conditions of said bond, the surety and due execution thereof to be approved by the Circuit Judge who made the order or decree sought to be reviewed \* \* \*

"On June 13, 1955, said cause came on further to be heard for the purpose of fixing the payee and conditions of said bond, to be given to effect a supersedeas, at which time this Court entered an order fixing the terms of said bond to be given. On June 15, 1955, two days later an order was entered authorizing the Receiver to pay himself \$2200 for services rendered out of the funds then in his hands. Said Receiver was not then, or thereby discharged" - - - and this is underlined - - - "and no determination was then made as to which party or parties should be or would be taxed with payment of said Receiver's fee, nor was any effort made to tax at all. At the time of entering said order, authorizing said Receiver to pay himself out of the funds

then in his hands, no supersedeas was in effect and, indeed, at that time whether any supersedeas ever would be effectual depended upon whether a bond in the sum of \$20,000 conditioned as required by said order were given. Unless and until said bond was filed, no supersedeas was in effect; the entry of said order fixing the terms of said bond, did not operate as a supersedeas, but merely fixed the conditions of a bond which, if and when it was given, and filed, would operate as a supersedeas. It should be noted that under Rule 19 of the Supreme Court Rules it is the giving of the bond required which operates as a supersedeas. In an appeal, three things are essential in order to effect a supersedeas: (1) The entry of notice of appeal; (2) Entry of an order fixing the amount and conditions of the supersedeas bond, and (3) The filing of the supersedeas bond, and when that has been done, the power of the Circuit Judge is ended. See *Banning vs. Brown*, 73 Florida 54, 74 Southern 23. But until a supersedeas bond fixed pursuant to the Rules has been filed then no supersedeas is in effect. See *State ex rel. Martarno vs. Robles*, 109 Florida 528, 147 Southern 910. It is clear, therefore, that on July 15, 1955, no supersedeas was in effect because no bond had been filed.

"Under the circumstances this Court entered its order dated June 15, 1955, recorded in Chancery Order Book 1189 at Page 197, authorizing said Receiver to pay himself out of the funds in his hands, and it appears to the Court that he then, and at that time did so, and hence this motion for remittance of said sum, it being contended that the subsequent filing of the supersedeas bond requires such an order. In the first place, it was never the intention of the Court to engraft upon the order of the Supreme Court any other or further condition, nor require as a condition of said supersedeas bond, that Defendants should pay said Receiver, or that said Receiver should pay himself, and this Court does not so construe said order of June 15, 1955. The only intention or effect of said order, as this Court construes same was to authorize said Receiver to pay himself out of the funds in his hands then and before any supersedeas was perfected, and it appears that he did so. The supersedeas bond was not filed until June 16, 1955. The question before the Court is this: Where an order is entered at a time when no supersedeas is in effect, and such order is actually executed at a time when no supersedeas bond has been filed, and no supersedeas is in effect, does the subsequent filing of a supersedeas bond operate retroactively, so as to undo what has been done, pursuant to an order before such supersedeas became effectual? In 2 Florida Jurisprudence 'Appeals' 412, it is said:

"The effect of a supersedeas is to stay all proceedings in the Court below, except such as are necessary to preserve the rights of the parties. It suspends the power of the Court of original jurisdiction to make any order which amounts to an execution or enforcement of the order or decree appealed from. However, it does not interfere with what has been done. Being preventive in its effect, it does not undo or set aside what the trial court has adjudicated."

"In *Crichlow vs. Maryland Casualty County*, 116 Florida 226, 156 Southern 440, the Court said:

"Even if the supersedeas was perfected by the execution of the bond, it only had the effect of staying further proceedings, but does not interfere with what has already been done." Citing cases.

"The appeal was not with supersedeas or an order staying further proceedings; therefore the power of the Court to proceed with the cause toward an adjudication upon the merits was not affected by the appeal, certainly not until the bond was filed and the order became effective."

"In *Thalheim vs. Camp Phosphate Company*, 48 Florida 190, 37 Southern 523, the Court was construing Section 1272 of the Revised Statutes of 1892 now Section 59.13, FSA, which has now been replaced by Rule 19 of the Supreme Court Rules, but has not changed the basic principle that the giving of the bond makes an appeal or petition for certiorari operate as a supersedeas, and speaking of that section the Court said:

"Section 1272 of the Revised Statutes of 1892 being in derogation of the common law, must be strictly construed; and we fail to find anything in its language which would warrant us in holding that, upon the perfecting of a supersedeas, what has already been done under a judgment or execution should be annulled, and, where personal property had already

been levied upon, that it should be restored to the possession of the Defendant in execution."

"In *County Commissioners vs. Johnson*, 21 Florida 577, the Court denied a motion for a rule to show cause why appellee should not be attached for violating a supersedeas granted by the Supreme Court. It appeared that the judgment had been executed before the supersedeas became effective. The Court said:

"A supersedeas to a final judgment not performed stays the execution thereof, but does not undo the performance of such judgment which has been fully performed. 5th Florida 234; 19 Wall. 661. The rule is denied."

"See also 83 C.J.S. 'Supersedeas'—897, and authorities there cited. The authorities make it clear that a supersedeas is not effectual until the required bond is filed and that it is purely preventive, and operates prospectively, and not retrospectively, and does not undo what has been done under an order or judgment before supersedeas is perfected. In this case there can be no doubt that the order dated June 15, 1955, authorizing the Receiver to pay himself out of the funds then in his hands was entered, and actually executed, before any supersedeas became effective, and hence the subsequent filing of the supersedeas bond did not operate to undo what had been done, and accordingly, it is therefore considered, ordered, adjudged and decreed, that said motion be and the same is hereby denied.

"DONE AND ORDERED at Miami, Florida, this 12th day of August, a.d., 1955," and signed by me, as Circuit Judge.

BY MR. HUNT:

Q So, the net effect of that opinion and order was to permit the receiver to retain the \$2200, pending final determination of the issue before you?

A That is correct.

Q As the Supreme Court had directed?

A That is correct, and they stated in the first part of the order that it had not been determined to whom it was going to be charged or assessed against; so, there was no one to whom it could be remitted.

Q Now, Judge Holt, on the final wind up of that case, after the Supreme Court had reversed the appointment of the receiver, did you enter orders in execution of the opinion and mandate of the Supreme Court?

A I did.

Q Did your order, among other things, tax costs against the Plaintiff, the unsuccessful party?

A It did, and not against the Defendant.

Q Did the Defendant file a motion, asking you to set off a \$5,000 note which they held of the Plaintiff's?

A They did.

Q Did you grant that request?

A I granted it.

Q I have been corrected. I believe the Plaintiff held the note, is that right?

A The Plaintiff held the note of the Defendant corporation, and on the 18th of October, I entered an order, awarding the fee of \$2200 to the receiver, "together with all other costs incurred in this cause be, and the same are hereby taxed against the Plaintiff, the unsuccessful party herein."

Q Did that action meet with the full approval of the Plaintiff and his attorney, as Mr. Hackney has already testified?

A Yes sir, it did, and as I recall, all of this - - - these matters came before me on the last go round, more or less as an agreed or stipulated set of facts.

Q Judge Holt, there is mention before the Senate of the fact that you later, during the month of December of 1955, awarded to Mr. Kurlan a fee of \$8500 for his services as receiver in the *Oceanic Villas* case, which had been filed and

prosecuted by the Mercantile National Bank of Miami Beach, is that correct?

A That's correct, that was the case in which Judge Wiseheart appointed Mr. Kurlan as receiver, and it was Judge Wiseheart's case. I had nothing to do with it, except the final decree.

Q Did you entertain the case at the time of the final decree because of Judge Wiseheart's absence?

A I did, and one of the main reasons I did, that all the parties had agreed that they had a sale for the property, which would pay out everybody concerned, and it was of the utmost importance that dispatch be had and the decree be filed.

Q Is that the case about which Mr. Lewis Horwitz testified at some length before this Senate?

A That's correct.

Q Was the amount of the fee fixed in that case entirely satisfactory to the Plaintiff and to his attorney?

A It was, and they so stated.

Q Did you receive their recommendation at the time of the hearing as to the payment of that amount to Mr. Kurlan for his services?

A Yes sir, I did.

Q Do you have any personal familiarity with the size of Oceanic Villas - - -

A I have - - -

Q - - - as a property?

A I have none. All I was doing was acting as alternate judge to Judge Wiseheart in a case which he had handled from the very beginning.

Q Was there any appeal from any order entered by you in this case?

A No sir.

Q And no appeal from any orders entered by Judge Wiseheart in that case, was there?

A No sir.

Q And Judge Wiseheart had selected Mr. Kurlan as receiver in the first instance?

A He had.

Q Now, I believe during the summer of that same year, you and Mrs. Holt and Mr. Kurlan and his wife took the trip to Europe which has been testified about, is that correct?

A That's correct.

Q I believe your son also went on the trip?

A That's correct.

Q Was that the trip during which you visited these European courts, and later - - - which later formed the thesis of your book, "Wig and Robe"?

A Yes sir. I did a lot of work, but I can't sell the book.

Q There's no market for the book, Judge?

A No sir. Maybe they don't like the way I write.

Q I'll ask you to state, Judge, how the idea of that trip generated, who handled the - - - how the itinerary was selected, and in your own words, tell the Court how it developed and how it was handled, in all respects?

A Well, the idea originated with me, because in 1949, as I have testified, I was sent to Israel by the American Christian Palestine Committee, and visited many cities of Europe, and I wanted to - - - my wife and son to see practically the same things that I had seen, and since 1949, we'd been talking about it, trying to save a little money for it, and we talked with the Kurlans about it, and they seemed interested, and as a result of a lot of conferences and negotiations, we

decided to go, and went over to the Farr Travel Agency, on Miami Beach, to make the final arrangements.

Q Well, now, can you tell the Senate whether or not Mr. Kurlan was an experienced traveler?

A Yes sir, he was.

Q Can you state, Judge, how the matter of division of costs and expenses of that matter - - - of that trip, as between you and Mr. Kurlan, was handled?

A We decided amongst ourselves that we would all pay our own expenses.

Q Can you state whether or not, about that time, Pan American Airways began advertising this pay-as-you-go plan they had?

A They first started that plan then.

Q Did you investigate it, to determine whether or not, on the part-time basis, you and your family could stretch ends to make the trip?

A Yes sir, by repaying it on a time basis.

Q I think the evidence indicates that approximately \$700 of your cost of that trip was financed on the pay-as-you-go plan, through the Pan American service, is that correct?

A That's correct.

Q Do you recall how much the monthly payments were in the repayment of that obligation?

A As I recall, they were \$158 a month.

Q Did you pay the \$158 per month until that entire contract was paid up?

A My wife did. She paid - - - handles all the finances in my family.

Q Well, do you know of your own knowledge that it has long since - - -

A Yes sir, it was paid.

Q - - - been paid and retired?

A Paid, been paid, and Pan American - - - I don't know whether they still have the custom - - - they assign their paper - - - I don't know at what discount - - - to the Benefit Mutual Company, which is a finance company, and we had to make payments to them.

Q Now, at the time of picking up the tickets, did you go with Mr. Kurlan to the Farr Agency to pay your own portion and to pick up the tickets?

A I did.

Q Did you give, in partial payment, or had you previously given, in partial payment, a check signed by Mrs. Holt, of approximately \$199?

A Yes sir, that's right.

Q Do you recall approximately how much additional in cash you paid to the Farr Agency at the time of picking up the tickets?

A Around \$600 or \$700.

Q You heard Miss Frank's testimony about that matter before the Senate?

A Yes sir, I did.

Q Were her figures correct?

A Yes sir, they were correct.

Q Did you, in any manner or fashion, accept any part or portion of your travel expenses for that trip from Mr. Kurlan?

A I did not.

Q Directly or indirectly?

A No sir.

Q Now, during the course of the trip, will you state how the expenses and costs were handled between you and Mr. Kurlan?

A Well, under that contract, the first night's - - -

Q I don't mean what Miss Frank has already explained - - -

A Yes.

Q - - - I mean the incidental expenses of the trip after - - -

A We paid our own expenses.

Q Each of you paid your own way?

A Yes sir.

Q In every respect?

A In every respect.

Q Now, there's been some statement before the Senate that Mr. Kurlan at the present time is supposed to be abroad, or in Casablanca, or elsewhere. Do you have any knowledge of where he is?

A I do not. All I know is that he's abroad someplace.

Q Do you recall that in order to appear before the House Investigating Committee, Mr. Kurlan flew here without subpoena from Washington, D. C.?

A He did.

Q Do you recall that at the time the Bar requested Mr. Kurlan's presence in Miami, he flew back from South America to be there?

A He did.

Q Do you recall that he also made some four appearances before Dade County Grand Juries to testify in this matter?

A He did, and - - -

SENATOR RAWLS: Mr. Chief Justice, I'd like to remind counsel of the Senate's actions on that motion with reference to the Grand Jury reports.

MR. HUNT: I beg your pardon. I withdraw the question.

BY MR. HUNT:

Q Judge Holt, do you recall that Mr. Kurlan departed this country immediately following the House Investigating Committee hearing in which he appeared as a witness?

A He did.

Q Have you seen him since?

A I have not.

Q Have you had any contact with him in any way?

A None whatsoever.

Q Now, Judge Holt, in connection with your appointment, your selection of Judge John W. Prunty as a co-receiver - - - as a co-curator of the estate of Jewell Alvin Dowling, and later, as a co-curator for Mrs. Dowling, I wish you would state to the Senate, in your own words, what prompted you to select Judge Prunty as one of the co-receivers in those matters?

A Well, he was an attorney with wide experience. He had a very fine law practice, and was highly respected.

He had also served in public office too, as Assistant State's Attorney, and made quite a record there, and he was an all-round good lawyer, one in whom I had confidence, and who repaid that confidence by doing a great job.

Q I'll ask you to state upon what basis, or what consideration you fixed the compensation of the curators and others, including the receiver, the guardian ad litem, the examining physicians, and attorneys in that case?

A On the amount involved, the responsibility attached to it, the many, many different things that had to be done - - -

it was a twenty-four-hour job with these two elderly, incompetent people - - - and with the added factor that the Massachusetts people were not cooperating as Mr. Luther Mershon here testified, that it was my desire to see that the Massachusetts people and the Florida people cooperate for the benefit of the Dowlings; they were the only ones whose welfare I was interested in.

It was a constant, day after day after day job that they had to do, away from their law practice, and considering everything they had to do, the times they had to appear before me, the times they had to go to Boston, and everything else connected with it, convinced me that the fee that was allowed them was perfectly reasonable, and based upon sound premise, and as Mr. Klein here testified, who represented Mr. Dowling, that if he ran them as much as Mr. Dowling ran him, they more than earned their fee.

Q Judge Holt, did you in anywise, at the time of the entry of the various fee orders, consider in your own heart and in your own mind, that you were awarding excessive fees?

A I did not.

Q Did you enter those orders with any motive or intent of favoring any friend of yours over and above that which he had earned under the orders of appointment?

A No sir.

Q Did you, in arriving at those awards, the amount of fees involved, consider the prevailing procedure in the Eleventh Circuit for determining reasonable compensation to court appointees?

A Yes sir.

Q And did you use, adopt and employ the same judicial standards and considerations for the determination of those issues regarding fees as you have employed and used in all other cases in the sixteen years you've been on the Bench?

A Yes sir.

Q Are you aware of any - - - of the award of any large fee which exceeds the amount awarded in the Dowling case outside of Dade County?

A I am.

Why, right here in Leon County a total fee of \$536,000 was awarded for attorney's fees and a fiscal agent just a few years ago.

Q Here in Leon County?

A Here in Leon County.

Q What was the amount of the award?

A \$536,000.

Q To attorneys and a fiscal agent?

A I'll itemize it for you:

Attorney's fees - - - and this was an ordinary, routine estate matter - - -

Q In the County Judge's Court?

A In the County Judge's Court.

The total attorney's fees allowed was \$357,500; the fiscal agent - - - and I don't know what he did - - - got \$159,-840.46; and the appraisers who were employed in that estate received \$9,000; and additional executor's cost anticipated, but not specified, \$10,000, making a total of \$536,340.46.

Q Will you state the amount of the attorney's fees again?

A \$357,500.

Q That was awarded by the Probate Judge of Leon County?

A Of Leon County, Florida.

Q Judge Holt, briefly in reference to - - -

MR. HOPKINS: The name of that case? Was the name of that case given?

BY MR. HUNT:

Q Can you name the case, Judge? Do you have that?

A Estate of Dwight F. Davis, deceased.

Q Can you give counsel the number of it also, Judge?

A Case Number 2979, Probate Progress Docket, County Judge's Court, Leon County, Florida.

Q Judge Holt, with reference to the Stengel case which has been before the Senate, without prolonging the examination, I will ask you to state this:

Did you consider that the curator and the attorneys in that case were entitled to the award which you fixed and allowed?

A They certainly were.

Q Did you consider that the justice of the situation required the entry of the order which you entered, which took Annie May Stengel out of the household of Karl Raymond Stengel and his "wife" or "husband," Peter?

A Yes sir. He was a known homosexual, and had lost, a year before, the testimony disclosed, a year or before, in traveling through the country, he'd picked up a young boy he fell in love with and lost about two to three hundred thousand dollars of the funds of his mother to that boy.

He had a known record in the State of New Jersey of the same thing.

Q Was that testimony, those facts laid before you at the hearing?

A Yes sir, his brother and his niece testified to those facts to me.

Q Those facts were testified under oath?

A Under oath.

Q Did you also have exhibited before you obscene, nude pictures?

A I did.

Q You recall that?

A I did.

Q Were all orders entered by you in that case, Judge Holt, in the exercise of your best discretion, judgment and good faith as a Circuit Judge?

A It was, for the sole purpose of protecting the aged mother.

Q Well, now, in connection with the fee awards, I'll ask you to state briefly what consideration - - - what facts you considered in arriving at the award?

A The problems involved, the - - - after the curator was appointed, one of the Plaintiffs who brought about the proceeding changed her whole attitude and wanted to take her grandmother back to New Jersey - - - I don't know for what purpose, but she fought the curatorship after she had asked for it; and Raymond Stengel, the homosexual, left in the middle of night in an unpaid Cadillac automobile, and left the house open, completely furnished, with food in the refrigerator, and everything else untouched and unprotected.

They were bandying about this poor old lady as if she were a little toy or something, just for their own amusement, all of them intent on one thing, in trying to get her fortune, most of which was in the State of New Jersey.

Q After you had acceded to the petition, and appointed a curator, and removed Mrs. Stengel from the surroundings in which she was held, did one of the Plaintiffs take her from Florida, contrary to Court order?

A She did.

Q I believe there was also a proceeding before the Probate Judge at the same time, was there not?

A That's right, for the appointment of a personal guardian for her, and I recall the proceedings before Judge Blanton; he

issued a rule to show cause against this granddaughter of this woman, to show cause why she should not be adjudged in contempt, and for disobeying the orders of his Court, to which she has never replied.

Q Did you, in the handling of that difficult and distasteful matter, Judge Holt, exercise your best judgment and discretion as Circuit Judge?

A I did, in an effort to help the old lady, although they kept spiriting her from one place to another in Dade County until they finally left for the North.

The other brother, who joined with the granddaughter in filing the petition for the curatorship, went back to New York and never became involved in the matter again; so, it was a fight between the granddaughter, Raymond Stengel, the homosexual and the curators and the attorney for the granddaughter.

Q Judge Holt, in connection with the traffic accident on the night of December 20, 1955, will you state to the Senate the approximate time at which you and Mrs. Holt attended the Dodge party on Miami Beach?

A Around, I think, between 7:30 or 8:00 o'clock.

Q You are stating the approximate time of your arrival at the Dodge party?

A That or a little bit later.

I know that the boy who was driving us was a little bit late in picking us up, the colored boy who was driving our car.

Q Was that a regularly-employed colored boy you had?

A No, he worked at the filling station, but any time we needed him, if he had the time, he would drive us.

Q On what basis did you compensate him?

A A dollar an hour.

Q He would drive you and wait for you, and then drive you back?

A That's right.

Q Now, approximately how many young people and old people did you see in attendance at the Dodge party?

A Between 450 and 500 people.

Q Was your son there?

A My son was there, yes sir.

Q Was he an escort? Did he have an escort on the occasion, a date?

A Yes, he had - - - his escort was one of the daughters of the family giving the party.

Q While you were at the party, Judge Holt, did you partake of the food and drink offered the guests by Mr. and Mrs. Dodge?

A I did.

Q I wish you'd state to the Senate what you drank, and in what quantity?

A I drank two of these champagne glasses of champagne, and that's all.

Q I'll ask you to state to the Senate whether or not you saw Judge and Mrs. Prunty at the Dodge party?

A We did, and talked with them.

Q Can you state whether or not, when you prepared to leave the Dodge residence that evening, Judge and Mrs. Prunty left at approximately the same time?

A They did, and we were waiting for our cars at the same time.

Q Now, prior to that time, had you seen and talked to Judge Emmett Choate of the United States District Court, there at the Dodge Party?

A I did.

Q Do you recall where it was?

A It was out where we were waiting - - - the entrance hall, where we were waiting for the cars.

Q Did you converse with Judge Choate?

A Yes, we were talking about the fact that this was more or less a children's party, and that we had been there long enough - - - I think we stayed about forty-five minutes or an hour - - - and we were on our way home, and we let the - - - they had two orchestras there, and we were going to let the young people have a good time without being bothered by old people like us.

Q Was there some comment about the difference between that party and the ones you and Judge Choate used to have - - -

A Yes sir.

Q - - - as children?

A Yes sir.

Q What was the comment?

A "This wasn't like it when we were boys," or words to that effect.

Q Do you recall whether, at that time, you were looking for Mrs. Holt?

A I was.

Q Preparatory to leaving?

A Trying to get her - - - trying to find out where she was to get her to go home, and I was out there, as I recall, to send word to our boy to bring the car up. He was parked across the street, and it took about five minutes to get him there.

Q Do you recall about what time you and Mrs. Holt left the Dodge party?

A A little before 9:00, I think. We got home a little after 9:00.

Q And where were Judge and Mrs. Prunty when you left the Dodge home?

A I don't know whether we were in front or they were in front, but we left practically the same time in our respective cars.

Q Did you have any discussion with them, or with Judge Prunty, concerning going out somewhere to dinner - - -

A Yes sir, they wanted us to go out someplace to dinner.

Q - - - together?

A They went down to the - - - they wanted to go to the Powder and Puff, or something like that.

Q Boots and saddles?

MR. SUMMERS: Was it Post and Paddock?

BY MR. HUNT:

Q Was it Post and Paddock?

A Post and Paddock, yes.

Q Well, what happened when it was suggested that you and Mrs. Holt go with them to dinner at the Post and Paddock?

A Well, we decided to go on home.

Q Is that what you did?

A We did.

Q Now, when you arrived home at 9:00, or shortly thereafter, state to the Senate what happened?

A Well, we looked at television for a while, and then my wife said she was going upstairs to prepare to go to bed, and I took the dog out, and while I was out there, I decided to go down to Riccio's and get me a steak.

Q How far from your home is Riccio's?

A Four blocks.

Q Go ahead.

A So, I put the dog in the car and went to Riccio's.

Q Were you fully dressed, Judge?

A Yes sir.

Q At about what time, if you recall, did you arrive at Riccio's?

A About quarter to 10:00 or 10:00, something like that; I don't know exactly.

Q Is that your best recollection, that it was shortly before 10:00 o'clock?

A Yes sir.

Q State to the Senate what transpired upon your reaching Riccio's?

A I ordered me a steak and a side order of spaghetti and ate it.

Q Where did you park your car?

A In front.

Q What did you do with the dog?

A Took him inside with me.

Q In what portion of the restaurant?

A Well, it's just off the restaurant where the bar is, and they have about eight or nine tables there.

Q Had Riccio, on previous occasions, permitted you to bring the dog in that particular portion of the - - -

A Yes sir.

Q - - - property?

A Yes sir, that's the only place I could take him.

Q Do you recall the testimony before the Senate of the witness, Joseph Morelli?

A Yes sir.

Q Was he your waiter that night?

A He was.

Q Had he served you on previous occasions?

A He had.

Q How long do you think you remained at the restaurant?

A A little over an hour. I think my approximate time of departure was around ten after 11:00.

Q Judge Holt, while you were eating, did anyone sit at the table and converse with you?

A Mr. Riccio did. ---

Q Do you recall that - - - any discussion you had with Mr. Riccio, or what the subject matter of the conversation was?

A Not particularly, but he was interested in the dog and in the car.

Q Well, now, did you have a drink at Riccio's?

A I did not. There was a bottle of beer on the bill which I bought for Mr. Riccio. He sat there and drank it.

Q Did Mr. Riccio invite you to have a drink with him?

A He did not.

Q Did you invite Mr. Riccio to have a drink with you?

A No sir, I did not, he just said he wanted a bottle of beer.

Q And it got on your bill?

A And it got on my bill; how, I don't know.

Q Well, now, did you pay your bill to Morelli?

A Yes sir.

Q Did he bring back your change?

A Yes sir.

Q Did you then get up to depart the premises?

A Yes sir.

Q Did Mr. Riccio walk outside with you?

A He did.

Q Will you state to the Senate what happened at that time?

A Well, I put the dog in the car, and we were talking about the car, and he said he would like to see the engine, and I lifted up the hood and showed him the engine and asked him to ride around the block with me.

He started to get in the car, and the dog growled at him. He said, "No, I'm not going in that car with that dog."

So, we talked a little while longer, and then I left. I was headed south.

Q When you left?

A Yes sir.

Q Did you turn at the signal light?

A Yes sir, I was right at the signal light there; it's on the corner.

Q What direction - - - in what direction did you turn?

A Turned west, right.

Q State to the Senate what you recall about subsequent events?

A It being a holiday season, I did not use any of the regular streets, and I went across Biscayne Boulevard, through Little River, still on 79th Street, till I got to Miami Avenue, which is the dividing line between east and west in the City of Miami, and then turned south on Miami Avenue.

Q Where did you then go?

A I woke up in the hospital.

Q Do you recall how far south you proceeded on Miami Avenue?

A Two or three blocks, and that's all.

Q Do you recall where you were headed?

A I was headed to the Jesters Club for the Christmas dinner.

Q What Christmas dinner?

A That Judge Prunty and I had talked about at the Dodge party, that Colonel Jimmy Bright is the host every year, around Christmas time; and - - - but I never did get there.

Q You don't recall how far south you went before you turned around?

A No sir.

Q Your next recollection is - - -

A Three weeks later.

Q You were in the Jackson Memorial Hospital?

A Three weeks later.

Q In the hospital?

A Yes sir.

Q Judge Holt, had you had anything to drink from the

time you left the Dodge party until you took the ride in the general direction of the Jesters' dinner?

A No sir.

Q Where was the Jesters' dinner being staged?

A The top of the Professional Building, around 4th Street, on N. E. 2nd Avenue.

Q What is the Jesters you refer to?

A It's a branch of the Shrine. You have to be a Shriner to become a member of it.

Q Is attendance at those affairs by invitation only?

A By invitation only.

MR. MUSSELMAN: Mr. Chief Justice - - -

CHIEF JUSTICE TERRELL: Mr. Musselman.

MR. MUSSELMAN: - - - the time for adjournment is fast approaching.

May I at this time inform the Court that we have filed with the Court an application for the Writ of Protection, and a form of a writ.

MR. HUNT: If Your Honor please, this witness has been interrupted once on that point, and I'd like to complete his examination before we take up more time on what counsel would like to do.

CHIEF JUSTICE TERRELL: Do you have any idea how much longer it will take you, Mr. Hunt?

MR. HUNT: I think another ten minutes I'll complete, and I'm afraid what he wants to propose will take longer, Judge.

SENATOR CARRAWAY: Mr. Chief Justice, I move that the time of adjournment be extended until the final action on Mr. Musselman's petition.

(The motion was seconded from the floor)

CHIEF JUSTICE TERRELL: You've heard the motion. If there's no objection, that will be the order.

BY MR. HUNT:

Q Judge Holt, how long did you remain in the hospital?

A Four weeks.

Q And did you then go to your cabin up in North Carolina to recuperate?

A No sir, I went to Chapel Hill, where my son was attending school.

Q Were you under continued medical treatment there at Chapel Hill?

A I was, and one reason I went to Chapel Hill, they have a very fine hospital there.

Q Is that the University Hospital?

A University of North Carolina Hospital.

Q How long did you remain there?

A I remained there, I think, five or six weeks.

Q Judge Holt, were you advised, after returning to consciousness, that a complaint had been set out against you for violation of the traffic ordinance of the City of Miami?

A No, I was advised of that when I was in North Carolina.

Q Did you have an attorney to represent you in that matter?

A I did.

Q Will you state to the Senate what advice you received from your attorney, and how the matter was handled, from your standpoint?

A This is where the Miami Herald comes in again:

They started raising Cain that I was being given real V.I.P. treatment by not being hailed up before the Court while I was in the hospital, unconscious, and that I should be treated like anybody else, regardless of my physical condition, and day after day they hammered on that like they always do.

So, my attorneys came to Chapel Hill and advised me that, to stop the public clamor which the Herald was illegitimately raising about the fact that I had not been tried in the City Court, they advised me that the best thing for me to do was for them to go - - - for me to stay and recuperate, and for them to file a plea of nolo contendere, because in this accident, gentlemen, I had the misfortune of being knocked unconscious, and of course, I didn't have any witnesses - - - at least, until after I had settled the case, and a lot came forward then.

So, that plan was carried out, and a plea of nolo contendere was entered in my behalf, and they had a big session, like they had in the House Committee, with the television going in your face all night long; and they had several members of the Grand Jury present, and the Judge finally found me guilty on the plea of nolo contendere, and fined me \$200, which I paid.

Q Under the circumstances with which - - -

A For reckless driving and ignoring a traffic light; those were the two charges, and that's all.

Q Did anyone, even including the publication which you have mentioned, charge or imply that you were intoxicated?

A Never was until these gentlemen filed it in their specifications.

Q Judge Holt, did you, on that occasion, prepare and have your attorneys present to the Municipal Judge a statement of your position in the matter?

A I authorized my attorney to do so.

Q Do you have a copy of that statement, by any chance?

A No, I do not.

Q I hand you what appears to be a transcript of the proceedings before the City Court, Municipal Court of the City of Miami, on February 10, 1956, and will ask you, first to state whether or not Mr. William Gaither appeared there as your attorney?

A He did.

Q Will you examine that transcript, and state whether or not Mr. Gaither read your statement to the Court?

A Yes, he did.

Q Is that the statement you authorized Mr. Gaither to present?

A Do you want me to read it?

Q Yes sir.

MR. HOPKINS: Judge, are you going to offer that in evidence?

MR. HUNT: What's that?

MR. HOPKINS: Is that going to be offered in evidence? That transcript?

MR. HUNT: It's the statement of this Respondent's counsel to the Court, authorized by the Respondent - - -

MR. HOPKINS: Well, I - - -

MR. HUNT: - - - and I think it's germane to the issue.

CHIEF JUSTICE TERRELL: Mr. Hopkins wants to know if you are offering it in evidence.

MR. HUNT: No, I see no reason to offer it in evidence.

MR. HOPKINS: Well, he ought not read from the instrument unless it's in evidence.

I think that's the rule.

CHIEF JUSTICE TERRELL: It seems like to me, if it's to be considered, Mr. Hunt, it should be offered in evidence.

MR. HUNT: I have no objection, if counsel wants some more evidence.

MR. HOPKINS: You offer it in evidence?

MR. HUNT: Yes.

MR. HOPKINS: No objection.

MR. HUNT: Thank you.

(Whereupon, the instrument was received and filed in evidence and marked Respondent's Exhibit Number 15)

BY MR. HUNT:

Q Read it, Judge.

A "MR. GAITHER: This is the statement of George E. Holt" - - -

Q Now, you'll have to read it out.

A "I am advised that I was involved in an automobile accident at the intersection of N. W. 2nd Avenue and 62nd Street on December 20, 1955. I was rendered unconscious as a consequence of this accident, and I sustained physical injuries to myself that required hospitalization until January 18, 1956. As to the injuries which I sustained, I do not have any personal recollection of being involved in this accident, nor do I recall any of the events that transpired immediately prior to the collision. All that I know about the accident is what has been related to me.

"It was some three weeks following the accident before I became fully rational and aware of the fact that I was in the hospital.

"I understand that I am charged by the City of Miami with driving at an excessive rate of speed, and with failing to obey an automatic traffic signal. Because of the head injury which I sustained, I do not know what transpired, and I can only accept the word of eye witnesses who were personally present and who observed my accident.

"I can say, however, that in the past I have not knowingly violated traffic regulations of any recognized authority. If I am guilty of the charges made against me, then I expect to be treated in the same manner as any other citizens of Miami.

"It is with sincere regret that I have learned of the fact that other parties to this accident sustained personal injuries or serious injuries. I wish for them both an early and complete recovery.

"At the present time I am convalescing in North Carolina, and am still under the care of physicians. I came here at the direction of my physicians in order to obtain complete rest. While I have not fully regained my strength, I am slowly but steadily improving. It is my hope and belief that the next few weeks will result in my complete recovery, at which time it is my intention to resume my full duties as a Circuit Judge of this County."

Then follows a statement by Dr. Tracy Haverfield.

Q Will you read that?

A Dr. Tracy Haverfield said:

"This is to certify that I have read the statement prepared by George E. Holt. His complaint of loss of memory concerning the circumstances of the accident and even leading up to the accident are consistent with my findings on repeated examinations in the early stages of his recovery, and have remained so to date. This is known as a retrograde amnesia, and is a finding in most every severe head injury.

"I further certify that he is recuperating in North Carolina at my request. I have advised him that this period of recuperation should extend approximately two months. In the light of his recovery to date, a complete recovery is anticipated.

"/s/ W. Tracy Haverfield, M.D."

Q Judge Holt, with respect to the cylinder transaction

with Mr. Whiteside, you heard Mr. Whiteside's testimony?

A Yes sir.

Q Had Mr. Whiteside accurately stated the amounts and dates and results of investments made by you in war surplus aircraft cylinders?

A He had, and he also wrote me a final letter of accounting, which you have in your possession.

Q I hand you a copy of the letter, dated June 4, 1956, addressed to you from Mr. Whiteside; I ask you to refer to it and see if that's the letter you have in mind?

A This is his final accounting, yes sir, dated June 4, 1956.

Q Will you read that letter to the Senate?

A "June 4, 1956.

"Honorable George E. Holt, 8400 N. E. 10th Avenue, Miami, Florida

"Re: Aircraft cylinders

"Dear Judge Holt:

"This letter constitutes a final accounting between us in our joint venture in regard to the aircraft cylinders.

"On 4/11/52, for and in consideration of the payment of \$200 cash, I sold to you a one-thirty-fifth interest in and to my interest in certain aircraft cylinders. On August 13, 1952, I forwarded the Yonge & Whiteside Trust Account check, 1381, in the amount of \$1,124.28 in payment of one-thirty-fifth of my interest in the receipts from sales of said aircraft cylinders to that time. Total receipts to that time were in the amount of \$39,350.14.

"In January of 1953, I purchased my co-adventurer's remaining interest in the remaining aircraft cylinders for the sum of \$1,489.50. At that time, upon the payment of \$250 in cash to me, you acquired a seventeen and a half per cent interest in and to all of the remaining aircraft cylinders held and owned by me. During the year 1955, the balance of the aircraft cylinders was sold, and a total sum was received therefor, in the amount of \$16,328.31.

"During October, November and December of 1953 we thought we had consummated the sale of the cylinders for the sum of \$16,000, and as a result, I mailed you T. A. Whiteside Trust Account Check 1492, in the amount of \$2,800, as my estimate of your interest in the proceeds of such sale. However, this sale was not consummated.

"With the sale of the balance of the aircraft cylinders, for a total of 16,328.31, consummated during 1955, your pro rata share, at seventeen and a half per cent of same equals to \$2,857.45. Inasmuch as I have heretofore advanced you \$2,800 toward the sale of such aircraft cylinders, I remain indebted to you in the amount of \$57.45. Attached hereto please find check to your order, in that amount.

"This concludes this business transaction, and let me suggest that it is now in order for both of us to fix up our gains in the sale of these cylinders for our tax returns for the calendar year 1955. For your information, your gain is \$2,607.45, long term capital gain, where my gain is \$12,230.36.

"Please accept my apology for the delay in this accounting, but I am just getting around to gathering my information together for delivery to my accountant for my 1955 calendar year tax return.

"I trust this matter has been handled to your entire satisfaction. With personal regard, I am,

"Very truly yours,

"/s/ T. A. Whiteside"

SENATOR DAVIS: Mr. Chief Justice, I've been requested to make a motion for a five-minute recess.

CHIEF JUSTICE TERRELL: Without objection, the request is granted.

We'll take a five-minute recess.

Whereupon, a recess was taken from 5:00 o'clock, p.m. until 5:05 o'clock p.m.

CHIEF JUSTICE TERRELL: Order in Court. The Chair declares a quorum present.

MR. HUNT: If Your Honor please, in order not to detain the Court, we're willing to withdraw the witness at this time and complete his examination within a very short time tomorrow morning.

SENATOR HODGES: Mr. Chief Justice - -

CHIEF JUSTICE TERRELL: Senator Hodges.

SENATOR HODGES: - - - I believe it's obvious at this time that we will not be able to complete this case this week, and in view of that fact, I move you, sir, that we adjourn tomorrow at 12:00 o'clock, to reconvene at 2:00 p.m. Monday.

CHIEF JUSTICE TERRELL: You've heard the motion - - -

SENATOR ADAMS: Mr. Chief Justice, several of the Senators living in the southern part of the state, where distances from Tallahassee are rather great, have expressed the desire to have at least one day in their offices.

I would like, therefore, to offer a substitute motion, to the effect that we adjourn at 1:00 o'clock p.m. Friday, to reconvene at 2:00 o'clock p.m. on Tuesday.

SENATOR SHANDS: Second the substitute motion.

CHIEF JUSTICE TERRELL: You've heard the substitute motion that Court will adjourn tomorrow at 1:00 o'clock, until 2:00 o'clock p.m. Tuesday.

All in favor of the motion, let it be known by saying "aye." Opposed, "no."

Call the roll, Mr. Secretary.

SENATOR GETZEN: Mr. Chief Justice, do I understand that we are voting on the substitute motion for Tuesday?

CHIEF JUSTICE TERRELL: Yes, voting on the substitute motion for Tuesday, adjourning at 12:00 o'clock.

SENATOR ADAMS: My motion, Mr. Chief Justice, was from 1:00 o'clock tomorrow until 2:00 o'clock Tuesday.

CHIEF JUSTICE TERRELL: Oh, I misunderstood you. I'm sorry, Senator Adams.

Then, the motion before the Senate is that we adjourn tomorrow at 1:00 o'clock, until 2:00 o'clock Tuesday, is that correct? All right, that's the substitute motion; we're voting on the substitute motion.

All in favor of the substitute motion, let it be known by saying "aye." Opposed, "no."

Call the roll, Mr. Secretary.

Whereupon, Secretary Davis called the roll and the vote was:

Yeas—19.

Adams	Davis	Hodges	Pearce
Boyd	Eaton	Johnson	Shands
Carraway	Edwards	Kelly	Stenstrom
Clarke	Getzen	Knight	Stratton
Connor	Hair	Neblett	

Nays—15.

Beall	Branch	Gautier	Morgan
Belser	Cabot	Houghton	Pope
Bishop	Carlton	Johns	Rawls
Brackin	Dickinson	Kickliter	

CHIEF JUSTICE TERRELL: The substitute motion is adopted. We'll adjourn tomorrow at 1:00 o'clock until 2:00 o'clock Tuesday.

Senator Johns, a member of the Court, has submitted this question:

"Who were the attorneys in the Dwight F. Davis case here in Leon County that you talked about?"

(The witness resumed the stand for the answering of these questions)

**THE WITNESS:** Well, what attorneys, Mr. Chief Justice, do they refer to? The New York attorneys or the Tallahassee attorneys?

**CHIEF JUSTICE TERRELL:** I take it it's both.

**THE WITNESS:** I don't have the names of the New York and Washington attorneys.

The first award was for \$50,000 to the Tallahassee attorney; that's Mr. Charles Ausley; and \$50,000 to the New York City attorneys - - - I don't know who they were - - - and the Washington attorneys, for \$5,000.

The total amount of attorneys' fees was \$357,500.

**MR. HUNT:** Here it is, Judge.

**THE WITNESS:** Oh, here it is, Mr. Chief Justice.

The Tallahassee attorneys were Ausley, Collins & Truett; New York attorneys were Davis, Polk, Wardwell, Sunderland & Kiendl; and the Washington attorneys were Davies, Richberg, Beebe, Busick & Richardson.

**CHIEF JUSTICE TERRELL:** I have three other questions. There's been a suggestion that they go over till tomorrow morning, by some of the members of the Court.

**SENATOR STENSTROM:** Mr. Chief Justice, if I may, I think my question was in point, and I would like to have the answer to that.

**CHIEF JUSTICE TERRELL:** Is this: "What was the value of the estate in Leon County?" Is that yours?

**SENATOR STENSTROM:** Yes sir.

**THE WITNESS:** I think most of the value of the estate was composed of stocks and bonds, and I do not recall the exact value of the Leon County property, but I can have a check made of the files again before we reconvene, and answer the question.

**CHIEF JUSTICE TERRELL:** You can answer that question in the morning.

**THE WITNESS:** All right, sir.

**MR. MUSSELMAN:** Mr. Chief Justice - -

**CHIEF JUSTICE TERRELL:** Mr. Musselman.

**MR. MUSSELMAN:** - - - We have filed with the Court our application for the Writ of Protection, and I'd like to ask the Secretary to read it, please.

**CHIEF JUSTICE TERRELL:** Will you read the application, Mr. Secretary.

**MR. LINN, Assistant to the Secretary, (Reading):** "In the Senate of the State of Florida Sitting as a Court of Impeachment

"In Re: The Matter of Impeachment of George E. Holt, Circuit Judge of the Eleventh Judicial Circuit of Florida

"Application for Writ of Protection

"The undersigned Committee of Managers on the part of the House of Representatives bringing Articles of Impeachment before the Senate of the State of Florida do hereby apply for a Writ of Protection for one Robert W. Meserve, who is a resident of the State of Massachusetts, and for cause state as follows:

"1. That Robert W. Meserve is a resident of Waltham, Massachusetts, and is a duly licensed, authorized and practicing attorney in the city of Boston, Massachusetts.

"2. That the said Robert W. Meserve is desired by the Committee of Managers for the House of Representatives to appear and testify before the Senate in the impeachment trial now pending.

"3. That the said Robert W. Meserve is possessed of knowledge in regard to matters brought forth by the said George E. Holt in behalf of his defense and the said witness is desired for the purpose of rebuttal to such defense.

"4. Robert W. Meserve wishes to come into the State and judicial circuit for the sole purpose of testifying as a witness in this impeachment trial, and desires to return to the State of Massachusetts immediately upon his release as a witness by the Court.

"5. This witness was appointed permanent conservator of the estate of Jewell Alvin Dowling and is possessed of knowledge of matters testified to by witnesses produced by the Respondent in behalf of his defense.

"WHEREFORE, your applicants pray this Court to issue its Writ of Protection to the said Robert W. Meserve against service of process upon him, whether in an original proceedings or judicial proceedings from any Court of this State, and to except from said immunity from said service of process his arrest for any criminal acts committed while present in the State of Florida.

"Committee of Managers

"By:

"/s/ Thomas D. Beasley

"/s/ A. J. Musselman, Jr."

**MR. MUSSELMAN:** Mr. Chief Justice - -

**CHIEF JUSTICE TERRELL:** Mr. Musselman.

**MR. MUSSELMAN:** - - - We have a suggested form for the writ, may it please the Court.

I think, perhaps, that could be read, and I think it's self-explanatory.

**MR. LINN:** This is the form of the writ which you want read?

**MR. MUSSELMAN:** Yes sir.

**MR. LINN:** (Reading) "In the Senate of the State of Florida Sitting as a Court of Impeachment

"In Re: The Matter of the Impeachment of George E. Holt, Circuit Judge of the Eleventh Judicial Circuit of Florida

"Writ of Protection

"The Committee of Managers on the part of the House of Representatives having heretofore made its motion and filed a petition for a Writ of Protection from this court on behalf of one Robert W. Meserve, a resident of, and presently being in, the State of Massachusetts, and the Court having heard said petition, it is hereby

"ORDERED, ADJUDGED AND DECREED that the said Writ of Protection as prayed for in said petition be and it is hereby issued and all and every party authorized by law to serve process, whether original or judicial, are hereby commanded to abstain from executing or serving any such process upon the person or personal belongings whatsoever of the said Robert W. Meserve while he is being, and so long as he is, absent from the territorial jurisdiction of the Courts of Massachusetts and within the jurisdiction of this Court, and to abstain from obstructing or interfering with the free coming and going of said person to and from the place where said trial is to be held or on business relating to the said trial in any stage thereof, and the said Robert W. Meserve, individually and in any official capacity under commission of the Courts of the State of Massachusetts, shall be immune from the service of process of any and all courts of the State of Florida during such time as the said Robert W. Meserve shall remain under subpoena as a witness in these impeachment proceedings and for a period of twenty-four hours after his discharge as such witness. That the Writ of Protection shall not extend to or save the said Robert W. Meserve from service of process for any criminal act committed while present within the State of Florida as such witness.

"DONE AND ORDERED in Senate Chambers at Tallahassee, Florida this 8th day of August, 1957.

"CHIEF JUSTICE OF THE SUPREME COURT OF FLORIDA. PRESIDING OFFICER"

**CHIEF JUSTICE TERRELL:** Mr. Musselman.

MR. MUSSELMAN: I believe, sir, the reading of the Writ is self-explanatory as to the purpose of the Writ, and I'd just simply like to point out that this does not excuse or relieve him from any arrest of a criminal nature, while he is here, for any act done while he is here.

CHIEF JUSTICE TERRELL: You move its adoption?

MR. MUSSELMAN: I move its adoption.

CHIEF JUSTICE TERRELL: Any debate?

SENATOR BRACKIN: Second the motion.

CHIEF JUSTICE TERRELL: All in favor of adoption of the Writ, let it be known by saying "aye." Opposed, "no."

Call the roll, Mr. Secretary.

SENATOR EATON: Mr. Chief Justice - -

CHIEF JUSTICE TERRELL: Senator Eaton.

SENATOR EATON: - - - before you call the roll, may I ask a question of the Managers?

CHIEF JUSTICE TERRELL: Yes.

SENATOR EATON: Is it the intention of the Managers to use this witness if, in fact, this motion is granted, purely as a rebuttal witness?

MR. MUSSELMAN: That's our intention.

SENATOR EATON: And this is not an effort of any kind to reopen the case on the part of the Managers?

MR. MUSSELMAN: It's in rebuttal of the testimony by Defense Witnesses.

SENATOR EATON: Testimony by the Respondent?

MR. MUSSELMAN: No, the Defense witnesses.

SENATOR ADAMS: Mr. Chief Justice - -

CHIEF JUSTICE TERRELL: Senator Adams.

SENATOR ADAMS: - - - Will you answer a question for me, please sir?

My legal knowledge is admittedly limited, being a layman, but it occurs to me that it's certainly within the normal procedure of any judicial action that the prosecution be allowed to have rebuttal testimony, so long as they stay within the subject matter offered by the Defense, which is being rebutted, is that true?

CHIEF JUSTICE TERRELL: That's correct; that's my understanding that that's what they propose to use this testimony for.

Call the roll, Mr. Secretary.

Whereupon, Secretary Davis called the roll and the vote was:

Yeas—25.

Adams	Connor	Hair	Pope
Belser	Davis	Houghton	Rawls
Boyd	Dickinson	Johnson	Shands
Cabot	Eaton	Kelly	Stenstrom
Carlton	Edwards	Knight	
Carraway	Gautier	Neblett	
Clarke	Getzen	Pearce	

Nays—9.

Beall	Branch	Johns	Morgan
Bishop	Hodges	Kicklitter	Stratton
Brackin			

CHIEF JUSTICE TERRELL: The issuance of the Writ is approved.

SENATOR DAVIS: Mr. Chief Justice - -

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: - - - point of order.

CHIEF JUSTICE TERRELL: The point of order is well taken.

Court will be in recess until 9:30 tomorrow morning.

Whereupon, the Senate, sitting as a Court of Impeachment, adjourned at 5:20 o'clock P. M., until 9:30 o'clock A. M., Friday, August 9, 1957.