

SITTING AS COURT OF IMPEACHMENT

JOURNAL OF THE SENATE

446

Tuesday, August 13, 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 2:00 o'clock P. M., pursuant to adjournment on Friday, August 9, 1957.

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.

CHIEF JUSTICE TERRELL: Court will come to order. The Sergeant-At-Arms will make 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.

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

Whereupon, the Secretary 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	

SECRETARY DAVIS: Thirty-four present, Mr. Chief Jus-tice.

CHIEF JUSTICE TERRELL: Senator Knight, will you pray?

SENATOR KNIGHT: May we pray?

Our Heavenly Father, again this Senate is assembled. The members of this august body come from the various walks of life back to this Senate Chamber, where it becomes our duty to again listen and deliberate over the things that are introduced, the facts presented for our consideration.

In doing this, our Heavenly Father, we realize not only our weakness and our own infirmities, but we realize our inability, as far as strength and wisdom is concerned, to sometimes give the right construction to those things brought to our attention.

We are reminded, our Heavenly Father, that in yesterday's Sunday School lesson that great woman of the Bible, Hannah, promised God that if He would give to her a son she would dedicate him to His service throughout his entire life. This she did. The first person among the prophets, her son Samuel, became the one person who could hear God's voice talking to him. We have the medium of our conscience to hear the dictates of God's voice to us. May we yield to this voice; may we give adherence to its direction, and may we in all things give Thee the praise and the glory.

In Christ's name we pray. Amen.

By unanimous consent, the reading of the Journal of the proceedings of the Senate, sitting as a Court of Impeach-ment, for Friday, August 9, 1957, was dispensed with.

The Senate daily Journal of Friday, August 9, 1957, was corrected and as corrected was approved.

SENATOR CONNOR: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Connor.

SENATOR CONNOR: And members of the Senate: A meet- ing has been arranged - - it was arranged for this morning, but on account of the Governor having to go out of the state it was deferred until two-thirty this afternoon by the Board of Trustees of the Internal Improvement Fund to give the Board of Control authority to take some action in my dis- trict. Our lake down there is some eight and a half feet low. Half the canal has been dug and application has been made for funds to finish it, which was granted, and it has been temporarily held up.

I arranged this meeting, and all interested parties are here, and I would like to ask, as a senatorial courtesy, that I be excused for thirty minutes from two-thirty to three o'clock this afternoon.

CHIEF JUSTICE TERRELL: If there is no objection - -

SENATOR CONNOR: Upon returning to the Senate Cham- ber I shall acquaint myself with whatever testimony has been offered here on the floor of the Senate.

CHIEF JUSTICE TERRELL: If there's no objection, that will be the order.

SENATOR KNIGHT: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Knight.

SENATOR KNIGHT: I move that the Senator be excused from two-thirty to three, and I will tender to him the notes that I have made during that time, for his consideration.

(The motion was seconded from the floor).

CHIEF JUSTICE TERRELL: All in favor of the motion, let it be known by saying "aye."

(Those in favor of the motion so voted).

CHIEF JUSTICE TERRELL: Opposed, "no."

(Those opposed to the motion so voted).

CHIEF JUSTICE TERRELL: The "ayes" have it and the motion is adopted.

Thereupon,

HON. GEORGE E. HOLT,

the Respondent, who was previously duly sworn and who previously testified, was recalled to the stand, was further examined, and testified further as follows:

MR. HUNT: I have two or three further questions, if the Court please.

FURTHER DIRECT EXAMINATION

BY MR. HUNT:

Q Judge Holt, I believe that you have heard the testi- mony to the effect that on the night of the accident some

Q \$952, I believe it was, was taken from your wallet by the officers?

A Yes sir.

Q Will you state to the Senate the source of this money, and the purpose for which you were carrying it at that time?

A The source of that money was from my wife. She had been saving it for expenditure at Christmas time and had just given it to me that morning for that purpose.

Q Was that money to provide Christmas for the entire family?

A Yes sir. I was to buy a tuxedo for my son, buy a playground equipment for my grandchildren, buy a tuxedo for myself and a dress for my wife, which I always purchase around Christmas time.

Q And Mrs. Holt had delivered the money to you that morning. Is that correct?

A Yes sir.

Q Judge Holt, with respect to the automobile purchases in 1955, I believe on the first one you borrowed funds from Mr. Gersten and later repaid him, and on the second one you borrowed from a businessman and former client of yours named Langer. Is that correct?

A That is correct.

Q Will you state whether or not you have since repaid Mr. Langer in full?

A I have, and I've also paid Mr. Gersten in full.

Q At the time of the borrowing of these funds, Judge Holt, what was your intent with respect to financing their repayment?

A We had owned this place at Blowing Rock for some years and had not been up there for the last five preceding summers, and we had made up our minds to sell it and had listed it with a real estate broker for sale the early part of 1955. It was from the proceeds of such sale that it was my plan at that time to repay those two notes.

Q I wish you would state to the Senate the original cost of that North Carolina cabin, Judge Holt, and any additions or improvements thereto?

A It started off as a former pump house for Laurel Park Subdivision, and when that part of the town became connected with the city water supply, the pump department was dismantled but left standing - - one room downstairs and two small rooms upstairs. and it was purchased for the sum of \$1,600, which was borrowed from the bank.

Q \$1,600?

A Yes sir.

Q Now, about when did you buy that house?

A That was during the War, Judge Hunt, while you and I were both in the Coast Guard. My wife purchased it. She had to go to Blowing Rock on account of doctor's orders.

Q Then your original investment was \$1,600?

A Yes.

Q Did you later improve the property by additions?

A Gradually we improved the property.

Q How many rooms were added?

A I think we added two bedrooms and a living room.

Q Do you know at what over-all approximate cost these improvements were made?

A I think the whole thing stood us, when we finished it, around three to four thousand dollars.

Q And what did you intend to try to sell it for, Judge Holt?

A I listed it for \$13,000. Of course, you understand, Judge, that we rented that place on several occasions, and it is the invariable rule that whatever money we received from the rent of the property was put back into the repair or the improvement of the house.

Q Do you have it rented at the present time?

A Yes sir, I do.

Q To whom?

A To Judge George Schulz, of the Criminal Court of Record.

Q Of Miami?

A Of Miami.

Q Since you have not sold the house yet, Judge, state to the Senate what financing you arranged in order to retire these loans for these automobiles and any additional expenses you may have had in the last year or so?

A As I stated before the House Committee, I borrowed it from my brother in Tennessee.

Q Was that the same brother for whom you negotiated the purchase of the first Jaguar?

A That's right.

Q May I ask if you have a mortgage on your home?

A Yes sir, I have.

Q Your home in Miami?

A Yes sir.

Q Has it recently been increased?

A Yes sir.

Q Within what space of time?

A Within the last three or four months.

Q Do you know what is the principal amount of the mortgage there at this time?

A In Miami, it's around \$17,000.

Q What was it before you increased it?

A I think it was around nine or - - a little bit over \$9,000.

Q What is your habit with respect to carrying currency on your person, Judge?

A I carry it in my wallet.

Q Have you ever carried loose currency?

A Never.

Q Judge Holt, one final question: Do you know of any other public official besides yourself who has been editorially requested by the local morning newspaper in Miami to resign his office?

A Yes sir. Mr. Chief Justice Terrell was requested to resign from the Supreme Court of Florida twice by the Miami Herald.

Q I want to ask you if the Dade County Bar Association took any notice of such an editorial on the last occasion of such a suggestion?

A They did, and they unanimously passed a resolution lauding the services of Mr. Chief Justice Terrell, placed in the form of a plaque of a permanent nature, and it was presented by you, I think, Judge Hunt, to Mr. Justice Terrell at some ceremony in the Supreme Court building.

Q Was that the method adopted by the Dade County Bar Association to tender a token of its affection to Mr. Chief Justice Terrell?

A Yes sir, and in recognition of his great services on the Bench.

MR. HUNT: Take the witness.

CROSS EXAMINATION

BY MR. HOPKINS:

Q Judge, when did you first have the trouble with the morning newspaper that you referred to?

A When I first went on the Bench. I testified to that several days ago.

Q I believe that was in 1941?

A Yes sir.

Q And what was the trouble at that time?

A They wrote a front page editorial to the effect that any one of two hundred or more lawyers would have been a better choice.

Q I believe you say that there was an editorial or an article in the paper that was not complimentary to the judiciary, and that the case was handled against Mr. John D. Pennekamp and the newspaper by other members of the Court. Is that correct?

A You are speaking of the contempt citation issued by the then Senior Judge Paul D. Barns and Circuit Judge Marshall C. Wiseheart.

Q Do you recall what year that was?

A Mr. Hopkins, I don't recall what year that was, no. I know the basis of the action.

Q Can you recall the approximate year? Was it before or since 1950?

A Let's see: I went on the Bench in 1941. It was before 1950, yes sir.

Q And you had nothing to do with that proceeding. Is that correct?

A No sir. I was on my vacation, but I got full credit for it from the Miami Herald.

Q Why did you get credit for it?

A Because when I came back I stated that I would have added a jail sentence to the contempt conviction.

Q And has the Miami Herald been against you since that time?

A Continuously.

Q Now, Judge Holt, when did you make the trip to Europe that was the basis of this book that you have offered in evidence?

A Let me see. I think it was in 1954.

Q Do you recall when you wrote the book?

A I wrote it over there and finally completed it in my office here and at home.

Q Judge, I will ask you to read, if you will, in the Foreword in the book - -

A Yes sir.

Q In the third paragraph, beginning with the sentence, down to the first sentence over to the left.

A I know to what you refer - - reference to John Pennekamp, editor of the Miami Herald, whom I described as my good friend.

Q Would you read that for us?

A (Reading) "I gratefully acknowledge the assistance and cooperation in making the necessary contacts abroad, the interviews obtained, and the many lawyers, judges and officials I met through my good friend John D. Pennekamp, Associate Editor of the Miami Herald, whose gracious introduction to the members of the foreign service of his paper were of invaluable assistance: Mr. George Weller, Rome, Italy; Mr. Paul Ghali, of Paris, France, and Mr. Ernie Hill, of London, England - - all familiar names to the readers of the Herald for their forthright and public comments on the foreign af-

fairs of the particular sections of Europe which they serve so well; United States Senator George Smathers, who, through the State Department, secured for me the enthusiastic help of the following diplomatic representatives abroad:

Honorable Lewis Clark, American Consul General in Algiers and his brilliant assistant, Honorable Leon George Dorras; Honorable Howard Donovan, American Consul General at Zurich, Switzerland."

Q Is that the same Mr. Pennekamp that you referred to awhile ago?

A Yes sir, and he did assist me a great deal in his letters of introduction.

Q Judge, you ran about the last of 1954, did you not?

A That's right.

Q Did the Miami Herald endorse you for that office at that time?

A They did, in a desultory sort of way. They were not requested to do so. I did not confer with anybody on the paper, and they added me, along with the other incumbents of the Circuit Judgeships at that time, including Senator Eaton.

Q Isn't it true that the Miami Herald had nothing derogatory to say about you until after these charges were brought out that you are now being tried on?

A That is not true.

Q I hand you a photostatic copy of an issue of the Miami Herald dated April 19, 1954, and ask you whether or not that is an editorial endorsement of you for Circuit Judge?

A (After examining document) It is the one I just described. May I read it?

Q If you like, please.

A (Reading) "In the other five Circuit Court races each incumbent has one opponent. The liveliest contest is between Judge Joe Eaton, the youngest member of the Court in point of service, and Robert L. Floyd, who is concluding his second term as a State Legislator. Eaton's background includes eighteen months as Assistant County Solicitor and one year as Assistant State Attorney.

"Circuit Judges seeking reelection have the advantage of experience, and, while their opponents are campaigning against them on various grounds, none disputes their ability as administrators of justice. Therefore, the Herald suggests that you vote for these candidates for the six contested Circuit Court Judgeships:

"One. George E. Holt.

"Two. Marshall C. Wiseheart.

"Three. Stanley Milledge.

"Five. Mallory H. Horton.

"Eight. Vincent C. Giblin.

"Ten. Joe Eaton."

Q Now, Judge, is that the same Miami Herald that you said was against you at all times?

A It is.

Q Is that the same John D. Pennekamp that you made the remark about and said was against you, who is referred to in your book?

A That's right.

Q Judge, I believe you were requested by the Court to review the Dwight Davis case, in Leon County, in which you testified about these large fees. Is that correct?

A Yes sir.

Q Did you review that file?

A I haven't had time to review it, but I want to state here that I have no criticism of the Judge or the attorneys

involved, because I didn't sit and hear that case and I didn't award the fees, although they are extremely large fees - - over half a million dollars. In order for me to properly determine whether or not the Judge was right or wrong I should have heard the same testimony that he heard. It is exactly the same position that I am in with reference to these cases now before the Senate, and it reminds me of a Biblical quotation.

The Lord was having trouble in some towns over there. I think it was Sodom and Gomorrah, so he sent Ezekiel to correct the trouble. Ezekiel went there and was highly successful, and when he came back he was asked how he had accomplished such amazing results, and all he said were these words:

"I sat where they sat."

I sat where I sat in judging my cases, and the County Judge in this case in Leon County sat where he sat and heard testimony that I couldn't possibly hear.

Q Judge, as I understood it, though, you were going to make a study of that case, at the request of one of the Senators made on last Friday?

A I haven't had time.

Q Judge, I hand you a certified statement of the accountant who handled that case, and I would like to ask you a few questions about it, if I might. Will you turn to page two?

MR. HUNT: If Your Honor please, may I at this time interpose the objection that the witness has stated clearly that he has not examined the files, that he has not familiarized himself with the case, and I believe it just extends the time of the examination to ask him to read from some paper of a certified public accountant about which he has not testified in chief. We think it is objectionable.

MR. HOPKINS: As we recall, we didn't bring this case into the record. Judge Holt brought this case into the record, and I want to ask him some questions about the case.

A I can't answer your question, reading this letter. I would have to examine the whole file, read the entire testimony and check every figure in the case.

Q Will you look at page two of this report and see whether or not the total assets, for tax purposes, in this case were \$9,605,927.24?

A Yes, and on page three there is a deficiency, after payment of tax, of \$325,000, too.

Q Thank you, Judge. That would have been the deficiency if the lawyers hadn't won the tax case involved?

A Are you testifying or am I testifying?

Q Will you recheck it?

A I just read the figures.

Q All right. Do you find on page three, if you don't mind looking at that statement - -

MR. HUNT: Will the Court rule on the objection, please? This witness has not examined that file. He is just being used as a sounding board for counsel for the purpose of building something that the Court files themselves, if counsel conceives them to be relevant - -

CHIEF JUSTICE TERRELL: What is the object of this question, Mr. Hopkins?

MR. HOPKINS: If the Court please, we want to compare the fees in this case with those in other cases that we have had testimony regarding. We didn't bring it up. He brought it up for the purpose of comparison, and we want to go into it.

CHIEF JUSTICE TERRELL: I think this is in cross of the main examination, Judge Hunt.

THE WITNESS: Well, I can't do it unless I have the Court file here.

CHIEF JUSTICE TERRELL: I don't think, from Judge

Holt's answer, that he knows enough about the record to determine whether this is a comparatively proper measure of fees or not, unless you can connect it to something that does show.

MR. HOPKINS: May I ask another question, Your Honor?

SENATOR EATON: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Eaton.

SENATOR EATON: May I ask the Managers a question. Who prepared this report, please?

MR. HOPKINS: The accountant who handled the accounting in the estate of Dwight Davis.

SENATOR EATON: Is he available to testify in this case?

MR. HOPKINS: He is not available today. We have his report available, which we would like to mark for identification at this time, if we might.

SENATOR BELSER: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Belser.

SENATOR BELSER: I have never seen anything like this in a Court room before. It is contrary to all the legal knowledge that I have of evidence, for someone to bring a piece of paper in here, signed by Joe Doe and attempt to cross examine a witness based on something signed by Joe Doe. Now, who is Joe Doe and why isn't Joe Doe here?

CHIEF JUSTICE TERRELL: He stated that this is an account that was made up by the auditor or the accountant who examined the estate.

SENATOR BELSER: Well, could you, Mr. Chief Justice, make the statement that it was made by the accountant?

CHIEF JUSTICE TERRELL: No, I couldn't, and I say that unless it is connected I don't think it is proper testimony.

MR. HOPKINS: May I ask another question at this time?

CHIEF JUSTICE TERRELL: Ask your question.

BY MR. HOPKINS:

Q Judge Holt, you, I believe, objected to the fees in the Dwight Davis case of \$357,500. Is that correct?

A I think that's approximately correct.

Q Where did you get those figures from?

A From the Court file.

Q Then you are somewhat familiar with the Court file?

A No, I am not. I am casually familiar with it but not familiar enough with it to go into a detailed explanation of the CPA's statement about the case.

Q When did you read the Court file?

A I don't recall.

Q Now, Judge, assuming that the figures are right that the accountant furnished, that the gross estate, for tax purposes, was \$9,605,927 and that there are fees, total fees, of \$357,500, wouldn't that be 3.72 percent of the estate paid in fees?

A I wouldn't know.

Q You wouldn't question that, would you?

A I wouldn't say it was true and I wouldn't say it was false.

Q Let's go, then, to the Dowling case, that you are familiar with. The gross estate of the two Dowling estates in Florida were, were they not, \$433,913?

A No sir, I wouldn't say that.

Q Will you tell us what it was, then?

A I take the estate as combined assets in Florida and Massachusetts.

Q But you only allowed fees, did you not, for the handling of the Florida part of the estate?

A Not particularly, no. They had to go to Boston quite often.

Q You didn't ever have under your control any assets in Boston, did you?

A I certainly did. I had around \$400,000 in securities belonging to Ina Dowling before she was ever adjudged incompetent, and I sent those securities back to Boston through her lawyer, Mr. William Lane, of Miami.

Q Had you had them only temporarily because some man brought them down here?

A I don't know how long Mr. Lane kept them.

Q And then sent them back to Massachusetts?

A And I don't know how long Mr. Perlmutter kept them before he brought them to the attention of the Court.

Q Now, assuming that those figures are correct, leaving out those assets that came to Florida temporarily and went back in the next day or two, of \$433,913, did you not allow fees to curators and attorneys totaling \$90,324?

A No sir, I will not make any such assumption. I told you I based it upon the combined estate.

Q Is that figure correct as to the fees that you allowed?

A What did you say?

Q \$90,334?

A I really don't know. It may be that and it may not. I don't know. I haven't added them up.

Q Would you admit that that is twenty-one percent of the total of the estate in Florida?

A No sir, I will not.

Q Will you give us your figure, then?

A The only figure that I saw was around a million dollars, which was submitted to me by the CPA.

Q You realize that those estates were never under the control of the curators under you, do you not?

A That is in accordance with the CPA's statement.

Q Assuming that the Dowling estate in Massachusetts was \$1,828,305 and the total fees of curators, conservators and attorneys were \$36,155, wouldn't you find that to be only two percent of the Massachusetts assets that were allowed in fees?

A I will make no such assumption, because I don't know what fees were charged in Massachusetts.

Q That is a hypothetical question.

A Then I'll make hypothetical answers.

Q All right. Let's get back to Florida, then. Let's take the Stengel case. Were not the assets, the net assets entirely in Florida in the Stengel case, \$5,312?

A No sir. That is entirely wrong.

Q Will you tell us what they were?

A It was very difficult to ascertain what this homosexual was doing with the money and the assets, because he lost about two or three hundred thousand dollars to one of his so-called wives in Augusta, Georgia, on one trip; so they kept moving the old lady around so much that it was extremely difficult to ascertain the exact value of the estate. I do know that they purchased this home in South Miami, put a heavy mortgage on it, and bought a Cadillac automobile and didn't pay for it, and spent money like water, when I stepped into the case.

Q Judge, you didn't allow fees for something that somebody had already squandered before you had anything to do with the case, did you? Didn't you take into consideration the estate at the time it was recovered or taken over by the curator?

A The only thing I was interested in, Mr. Hopkins, was the welfare of this old lady.

Q Well, Judge, will you explain to this Court, then, what you did for her welfare after the estate was taken over by the curator?

A I did care for her as much as possible through the curator who was appointed, until the plaintiffs, the two plaintiffs, fell out amongst themselves and finally spirited her away from Dade County, Florida.

Q Now, did they get one nickel out of the estate that they had in Florida when they got through with it?

A I don't know whether they did or not.

Q You're not that familiar with the case?

A I didn't say that I wasn't familiar with the case. I told you that I could not find out, and neither could the curator, what her son was doing and what he was doing with her assets.

Q What did you do for the old lady?

A I've already told you that.

Q I didn't get the answer, Judge. I'm sorry.

A I protected her as far as I could until the plaintiffs who brought the suit asking for the appointment of a curator fell out amongst themselves. The son went back to New York City and was never heard of again, and the granddaughter continued spiriting the old lady around Dade County until she took her out of Florida entirely.

Q Judge, what are the assets that you saved for her?

A Well, the mortgage was about to be foreclosed because no payment had been made on it.

Q Judge, did you recover or did your curator recover anything, one dime or one nickel, from anything that she had in Florida?

A She didn't have anything, we found out later.

Q She had some birds that she loved and cared for, did she not?

A Yes sir, and they were left there to die.

Q And they were sold for \$275, were they not?

A I don't know what the figure was.

Q Did she get a nickel out of that?

A She didn't handle any money at all. She was taken care of. She had food and shelter and everything else.

Q Well, did your curator give her one nickel out of the sale of those birds?

A I don't think they gave her any nickel for anything. They just paid her bills.

Q What bills did she have, Judge?

A Living bills.

Q Did you order her home sold?

A I did.

Q Did she get one nickel of that?

A I don't recall whether she did or not.

Q Judge, do you deny the fact that after everything was sold after that lady had gone back to her home up north, that the net arrived at or the net received by the curator was \$5,312? Do you recall that figure?

A I don't recall that figure.

Q Well, do you deny that figure?

A I neither affirm it nor deny it.

Q After receiving a total of \$5,312 did you not allow fees in that case to curators and attorneys of \$20,500?

A I don't know whether your sum is correct or not. I did allow fees and authorized them to go to the state of New Jersey and collect their fees.

Q In other words, you gave them a judgment for the debts. Is that correct?

A I don't know what I gave them. I signed an order and they went to New Jersey and they collected their fees.

Q Now, Judge, assuming that those figures are correct - - a net of \$5,312 in the entire estate - - and that you authorized the payment of \$20,500 in fees, state whether or not that is three hundred and eighty-six percent of the amount involved that you allowed as fees in that case?

A I don't know whether it is that percent or not.

Q Judge, let me go back just a minute. Did you go to the County Judge's office in Leon County and look at that Dwight Davis file?

A No sir, I didn't. My attorneys did.

Q Did you ever look at that file?

A No sir.

Q So you testify that you didn't go there and you are testifying completely from hearsay and not anything that you have seen?

A From the notes that my attorneys made for me.

Q Did they make notes of the total assets, so that you might have the benefit of that also?

A Not to my knowledge. I didn't see any on the notes they gave me.

Q Judge, getting to the Gersten matter just a minute: When did you first talk to Mr. Gersten about this Plymouth automobile that was purchased?

A Oh, several weeks before the purchase was made, according to my best recollection.

Q Do you recall when and where you decided to go down and get the automobile?

A No sir, I do not. I don't know whether he called me or I called him.

Q Do you recall when and where you signed the note?

A I signed the note in my office.

Q Do you remember when?

A No sir, I don't.

Q Was it before going to Christopher Motors to pick up the automobile or subsequent to that time?

A I think it was before.

Q After going to Christopher Motors to get the automobile who paid the man the money for the automobile?

A Mr. Gersten did.

Q Did he pay him the entire amount?

A Yes sir, he did.

Q Now, do you recall when you made your first payment on that note?

A Well, here's where we get confused again. I talked with my son and he said that he would get \$400 for his Nash, so I subtracted \$400 from the amount of the note, and it came through within a few days. That's the first payment. You've got a copy of my wife's check to that effect. Then the second payment of \$500 was made - - I don't recall the exact date, but - - I'm not sure, but it may have been in October of '56. I'm not sure.

Q Was that subsequent to the time that the Grand Jury report was carried in the newspapers?

A I don't know.

Q You don't recall that?

A No, I do not.

Q Judge, getting back just a few minutes to the fact that you signed the note in your office before going to Christopher Motors, how did you know the amount to put in the note?

A Because I was told what the purchase price was and I subtracted \$400 from it.

Q If I remember the testimony of the witnesses, there was considerable haggling after getting to Christopher Motors about the price of the car. Is that correct?

A I don't recall any haggling, because the price was already determined when I got there.

Q Do you recall Mr. Holmes testifying that there was considerable haggling about the price and that he had to go and see the manager, the sales manager, Mr. Houston, before he could give you the last price?

A I heard him testify to that, and he may be right, but I don't recall it.

Q Well, if he is right how could you have known the amount to make the note for before leaving your office?

A I think he was trying to get it cheaper than the amount that was told to me in the office, but he didn't.

Q How much did that automobile cost?

A I think it was a little over \$2,100.

Q Would it help you any if I showed you the note?

A All you have to do is add \$400 to that note and you've got the purchase price of the car.

Q And that is the exact purchase price of the car?

A Yes sir.

Q I believe you said that Mr. Gersten paid the entire amount. Is that correct?

A Yes sir, he did.

Q Judge, I hand you a certified copy of an invoice furnished by the Tag Department, together with the tag, and ask you to look at it and state what was really paid for the automobile?

THE WITNESS: May I see the note?

MR. HOPKINS: I think it is in evidence. I will try to get it for you, Judge.

(Mr. Hopkins procured another document and handed it to the witness).

A The note is for \$1,785. Add \$400 to that and you get \$2,185. The bill which you give me from - - I presume this is the same car - - is \$2,213, and I don't know how that figure got to be there. I know that we had to call up another dealer to get another car down there because they did not have the proper kind of car. I know nothing about the difference between the \$2,213 and the \$2,185.

Q Judge, did you get a tag with the automobile?

A I don't know whether we got it that night or not. It was rather late. It was after five o'clock. The tag may not have been procured until the next day or so.

Q Well, let me show you a receipt of Christopher Motors showing that you paid \$2,213 for the automobile and \$17.50 for a license tag, and that Gersten actually gave him \$2,230.50.

A (After examining document) What is the question?

Q The question is, what is the total amount given to Christopher Motors by Mr. Gersten?

A I don't know - - the difference between \$2,213 and \$17.50 for the license title. That may have been included. I don't know; but it never was brought to my attention. This note is dated January 28, 1955.

Q Will you explain why the note was \$1,785?

A I've already told you that we figured the purchase

price was \$2,185, less \$400, which was paid by Mr. Gersten.

Q But the actual price was twenty-two what?

A Sir?

Q What was the actual purchase price as shown by the invoice?

A \$2,213. Now, what are we quibbling over? The difference between \$2,185 and \$2,213? How much is that? Do you know? I'm not much of a mathematician.

Q Judge, I understood you to say that the car had cost \$2,185. I was just asking you about it.

A Well, it's \$400 more than that note you just took.

Q At the time you gave that note you really didn't know what the car would cost. Is that correct?

A No, that's not correct. I thought it cost \$2,185.

Q Why was the note made for \$1,785 if the car cost twenty-two hundred and something?

A I've already explained that to you, Mr. Hopkins. There's no use going over the same old ground.

Q I didn't understand the answer, if you did.

A Well, read the record, Mr. Reporter.

Q Would you mind repeating it for me?

A I will repeat it once more for you, Mr. Hopkins. We figured in the office that the price would be \$2,185, less \$400, and I made out the note for that amount.

Q Judge, let me repeat this question. I believe you said you didn't remember whether the Grand Jury report came out before you made the payment. When did you make that payment?

SENATOR RAWLS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Rawls.

SENATOR RAWLS: I believe the State's Attorney realizes the rule adopted by this Senate with relation to the Grand Jury report, and I would like to call that rule to his attention again.

MR. HOPKINS: The Court please, I apologize if anything was brought out. I didn't intend to. I was merely trying to settle the time element, not anything about what this report contained. I was merely trying to establish the time.

CHIEF JUSTICE TERRELL: You can testify as to the time the note was made. That is one of the items.

MR. HOPKINS: May I re-word that question, then, Your Honor?

CHIEF JUSTICE TERRELL: Yes.

BY MR. HOPKINS:

Q Was a payment made on this note after Articles of Impeachment had been preferred by the House of Representatives?

A I don't think so. I think the whole note was paid before the Articles of Impeachment were voted. You've got the note there.

MR. HUNT: And he has all the checks, too, if the Court please, and they're all dated.

A You've got my checks and you've got the dates and everything else, and I can't answer your question.

CHIEF JUSTICE TERRELL: Now, what is the question?

MR. HOPKINS: May I ask another question?

BY MR. HOPKINS:

Q Do you recall whether the Resolution calling for an investigation of your office and of you passed the House of Representatives before you paid this note?

A No sir, I do not. I don't know when the Resolution was

passed and I still don't know the date that the note was paid.

Q Did you hear Mr. Gersten's testimony, Judge, and do you recall that he pointed out that that was what happened?

A Who?

Q Mr. Gersten.

A I heard him, but I don't recall any such testimony.

Q Judge, if I might go into the question of the wreck that you were involved in - -

A Well, tell me the amount of the note, will you, please, before we go on to that?

Q \$2,185 - - I believe it was \$1,785.

A And \$400 added makes it \$2,185. Is that correct?

Q Well, I think it's correct.

All right. Well, at last I have figured it out. You are arguing about a twenty-eight dollar difference and a \$17.50 difference.

Q That \$28 plus \$17.50 is still owing Mr. Gersten. Is that right?

A Sir?

Q That is what you still owe Mr. Gersten, according to your figures?

A Not according to my figures. You gave me these figures. They're not mine.

Q Well, whose figures are you talking about?

A I'm talking about these Christopher Motors figures that you gave me of \$2,213, and I subtracted \$2,185 and I get \$28 That's what we've been talking about for thirty minutes - - and \$17.50 for a license tag.

Q You were off that much in your calculations when you made the note. Is that correct?

A It could have been, yes sir, but I never was asked for that money.

Q Were you ever asked for any of it?

A I certainly was. It was a demand note. We have been talking here now for thirty minutes about a sum total of \$45.50.

Q Now we'll get to December 20, 1955, to the wreck. What is the last thing you recall prior to the wreck?

A As I testified before, after turning south on Miami Avenue and traveling several blocks.

Q Do you remember which block you were in at the time you quit remembering?

A No, I do not.

Q Approximately how far away were you?

A Sir?

Q How far were you away?

A I would say four or five blocks.

Q Judge, I believe you testified that you were on the way to the Jesters party. Is that correct?

A That was my intention, and, after turning south, I realized that I had the dog with me and that he wouldn't be allowed to go up on the top floor of the Professional Building. I was going down there just for the purpose of wishing Colonel James H. Bright a Merry Christmas, and that was all.

Q Judge, where is the Professional Building located?

A It's on Northeast 2nd Avenue between 4th and 5th Streets, if I'm correct—one of the first office buildings erected in Miami.

Q And I believe you testified that you had gone by Riccio's and had dinner. Is that correct?

A That's correct.

Q Where is Riccio's located?

A South of my home, on the same street, about - - I'm at 84th Street and he is at 79th Street.

Q Judge, I wonder if you would mark on this map for us that was introduced in evidence, first where you live, next Riccio's, and then the Professional Building. Would you do that for me?

A Yes sir. If it's a better map than the House Committee had I'll be glad to do it.

Whereupon counsel and the witness rose and went to a large map, which was spread over the Secretary's desk.

A Yes sir, that is much better. Here is Northeast 79th Street, Northeast 10th Avenue. Right here is Riccio's.

Q Now, can you help me with the Professional Building?

A Yes sir. Let's get on downtown. Here's Flagler Street and Miami, Northeast 2nd Avenue, Northeast 4th and 5th Streets—right here. It's not on the corner. It's in the middle of the block. I may be wrong about the block. It may be - - no, it don't go down that far. It's about here. Here is 2nd Avenue. Here is Northeast 2nd, right here. It's just before you get to the White Temple, the Methodist Church on 4th Street, I think. Fifth Street is beyond. This is Northeast 2nd Avenue right here, I think. Is that right?

Q Yes.

A (Marking). It would be right here.

Q Thank you, sir. Judge, approximately what time that evening did you go to the Dodge party?

A As I recall it, the colored boy who was driving us was late. He had a regular job working at a filling station at that time, and I think we got to the Dodge party around a quarter to eight or eight o'clock.

Q Judge, will you just recite generally what you did when you got to the Dodge party?

A Well, there were five hundred and fifty odd people invited, and we went through the receiving line, then went outside in the yard and talked with friends and acquaintances.

Q Did you have anything to drink there?

A I had two small glasses of champagne.

Q Now, Judge, do you remember that clearly?

A I do.

Q Do you remember testifying before the agents for the Bar regarding that matter?

A No, I do not.

Q You don't recall that you testified?

A I recall that I testified, but I don't recall any specific testimony, unless you can refresh my memory.

Q All right, sir. Do you remember being asked the question, "Had you had anything to drink of an alcoholic nature at the Dodge party that evening?" to which you replied, "I may have had one drink or a couple of beers, and that is all, because it was more or less of a child's party and there was not much of that going on over there. I had none at home."

Do you recall testifying that?

A I recall substantially that testimony, yes sir.

Q Were you uncertain at that time as to whether or not you had had beer or whether you had champagne?

A Well, it didn't make very much impression upon me, either way—beer or champagne.

Q But the point is do you clearly remember now that you had champagne?

A Well, it doesn't make much difference, Mr. Hopkins,

whether I had beer or champagne, but, as I recall it, it was champagne and not beer.

Q Although you say it doesn't make much difference whether it was beer or champagne, doesn't it make a great deal of difference as to what you recall?

A No sir, it doesn't. That's not an important item.

Q You don't see the importance of the accuracy of that statement?

A I do not.

Q And you don't deny that you may have said beer when you were questioned before?

A No sir, I do not deny it. I'll tell you, when those Bar investigators came down home I appeared there voluntarily, without benefit of subpoena, gave them my bank records, income tax records, and every other record I had, and I was hauled into a hotel room and kept there all day long, and I did pretty well in my physical condition to answer questions as I did then.

Q Judge, how long have you been having this colored boy drive you when you go to parties?

A Quite some time. What actually started it was the abduction and death of Judge Chillingworth and his wife. He was more or less hired - - he actually drove, but not as a driver but as a bodyguard for me. As I testified here before, I received a threatening postcard the day after Judge Chillingworth was abducted, reading "You are next."

Q Judge, in light of this, can you explain going off by yourself after the party?

A That was the first time I did that after a party, and I had a good dog with me, and I wasn't alone.

Q Incidentally, where did you get that dog?

A I bought him in Paris, France, for \$60.

Q That is "Monsieur Robert"?

Is that the name of the dog?

A His name is Monsieur Robert (giving it the French pronunciation), and, for your benefit, Mr. Hopkins, my son calls him "Robert."

Q So that's what you call him - - Robert. Is that right?

A Yes sir.

Q You have testified regarding Monsieur Robert before, have you not?

A Yes sir.

Q Judge, how long have you known Mr. Riccio?

A Ever since he has been down below me there.

Q Do you go there very often?

A I used to go there maybe once a week - - the finest food in town.

Q Did you know of his criminal record?

A I did not - - not until you asked his waiter about it.

Q Do you know of his place being raided by the Police in Miami?

A I had read about it in the papers, yes sir.

Q Did you know about his telephone being taken out and that he didn't have a telephone in his place?

A No sir, I did not know that.

Q Have you used that telephone there?

A Sir?

Q Have you ever had occasion to use the telephone?

A In his place of business?

Q Yes sir.

A No sir.

Q Did you know that gambling was going on there?

A Sir?

Q Did you know of gambling going on in his place?

A No, I did not. I never have been there when there was gambling.

Q What was your impression as to why the raid was pulled? What happened on the raid?

A Sir?

Q What was your impression as to why the place was raided?

A I don't know. All the places around Miami and Miami Beach, in those days, were being raided. I think that was right after Kefauver came down.

Q You were against the investigation for gambling?

A No sir, I am not. I have closed up more than one hotel on Miami Beach when they proved to me that there was gambling there, by permanent injunction which was not appealed to the Supreme Court.

Q Judge, what time did you leave Riccio's?

A About eleven or ten minutes after eleven - - something like that - - or a quarter after eleven.

Q And do you remember that clearly?

A Yes sir, I remember that. We went out to look at the car, and I put the dog in and I got in the car and started the motor, and he said he wanted to look at the motor, so I cut it off and got out and lifted up the hood and showed it to him. We talked about it for a while and he said he would like to ride in it. I said, "Get in," and when he started to get in the dog growled at him and he said, "No, I'm not getting in there."

Q Judge, you clearly remember, then, as I understand it - - summing up - - what happened at the party?

A Yes sir, I do.

Q And what happened at home?

A Yes sir, I do.

Q And what happened at Riccio's?

A Yes sir.

Q And you remember heading south on Miami Avenue, I believe the name is?

A Yes sir.

Q Is that correct?

A That's right.

Q You remember that as clearly as if you had not had the amnesia that you testified about. Is that correct?

A Yes sir, I remember it clearly. As Doctor Haverfield explained to the Senate, retrograde amnesia can go back even much further than it did to me.

Q Judge, how long have you been able to remember the facts you just testified about?

A Ever since they happened.

Q You didn't give a different statement to the agents for the Bar Committee?

A I may have, yes sir.

Q Will you tell the Court what you told the Bar Committee?

A I don't remember what I told them.

Q Could you explain why you gave a different statement to them from the one that you are giving here now?

A Because I was hauled down there without the oppor-

tunity to review the events of that night and without any warning as to the kind of testimony that was going to be covered, the areas of investigation, or anything of that nature.

Q State whether or not you told the Bar Committee that you didn't remember even your son being home from college?

A I did.

Q Is that correct?

A At times I did not remember him being home.

Q State whether or not you told the Bar Committee that you didn't remember what happened that night at any time after leaving the Dodge party?

A I don't recall making that statement. If I did, it was wrong.

Q Judge, do you remember when you testified before the Bar Committee?

A It was in the summer two years ago, I think.

Q Weren't you holding Court at that time?

A Yes sir, I was.

Q Could you explain to this Court why you made a different statement that time from the one which you are making now?

A Well, you tell me the statement first.

Q I ask you whether or not you testified that you did not remember anything after leaving the Dodge party on that night?

A Well, read the question and answer.

Q I'll try to find it for you Judge, in just a minute, and give it to you verbatim. Judge, do you remember specifically where you parked your car when you went into Riccio's?

A Yes sir, and I'll tell you why. I'm glad you asked me that question. I parked it in front of the door, because a Jaguar is very difficult to operate and I never let a parking attendant park the Jaguar because he doesn't know how to run the car.

MR. HOPKINS: I wonder if the Court would consider taking its afternoon break at this time and let me look through those records that I'm trying to check?

CHIEF JUSTICE TERRELL: How much time do you want? Ten minutes?

MR. HOPKINS: I think that will be plenty of time.

CHIEF JUSTICE TERRELL: Court will take a recess for ten minutes.

Whereupon, beginning at 3:17 o'clock, p.m., the Senate stood in recess for ten minutes.

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

BY MR. HOPKINS:

Q Judge, at your request, I've looked up the testimony, the testimony taken June 23, 1956, in which the question was asked you:

"Mr. Holt, from the time you left your house at approximately eight o'clock that evening, did you return? Do you recall whether or not you returned to the house?"

To which you answered:

"I don't recall, no sir."
Do you recall that testimony?

A Who was that before?

Q That was before the Bar Committee at the time you testified before the Bar Committee.

A Yes sir, I recall that testimony, and if you have read

the testimony before the House Committee you will find that I testified that I recalled more than that. My health had become better and that I testified approximately the same that I have testified here.

Q But you do admit testifying before the Bar Committee as I have read to you. Is that correct?

A That's the Bar Committee, but not the House Committee.

Q All right, sir. Let me ask if this further question was asked you on the same occasion:

"Judge, would you repeat for the record the last thing you recall immediately prior to the accident?"

To which the answer was:

"The last thing I recall was going home from the beach." Question, "You do not recall having been at Riccio's?"

Your answer, "No sir." Is that correct?

A That's correct, but that was corrected before the House Committee a year - - no, several months ago, because my memory had become better.

Q Well, Judge, I asked you if you can remember sometimes and sometimes you can't a few minutes ago, did I not?

A I don't recall.

Q And you testified in June of 1956 that you could not remember going to Riccio's. Is that correct?

A That's correct, but Doctor Haverfield has testified here before the Senate, the same as I am testifying, that my memory became better as the months progressed.

Q All right. In June of 1956 you couldn't even remember doing anything after coming home from the party. Is that correct?

A I've answered that three times, Mr. Hopkins.

Q Is the answer in the affirmative?

A Yes sir.

Q And you could not at that time remember going to Riccio's. Is that correct?

A That's correct.

Q And today you're willing to tell this Senate, this Court, that you can remember that you left there at ten minutes after eleven o'clock?

A Yes sir, and I told that to the House Committee also.

Q Judge, at these parties you are accustomed to drink quite a lot, are you?

A No sir, I am not.

Q Do you on occasions drink more than you can gracefully carry?

A I do not, no sir.

Q Beg your pardon?

A I do not.

Q You haven't at any time become under the influence of intoxicating liquors at these parties?

A No sir, I have not.

Q State whether or not in the spring of 1955, at the John Jacob Astor party, you had to sleep it off?

MR. SUMMERS: Mr. Chief Justice, we object to the question for this reason: That the prosecutors came in here the first day with a paper that they called the Bill of Particulars and they screamed about a lot of fairness, they wanted to confine themselves. They have stated in there that they were interested in one particular party, the Dodge party. They mentioned the drunkenness on the night of the accident, which was December 20th, and I think if they have presented

this paper for the purpose of being fair and for the purpose of restricting themselves, they ought to be bound by it now.

CHIEF JUSTICE TERRELL: When was the John Jacob Astor party?

MR. SUMMERS: In the spring of 1955, some six or eight months before this time that they have mentioned.

MR. HOPKINS: If the Court please, I would like to be heard just a second. He has testified that he does not become under the influence of whiskey and he has testified, if I remember correctly, that on no occasion has he become under the influence of whiskey. Then I asked him specifically whether or not he did, at the John Jacob Astor party in the spring of 1955. We think it is proper cross and that it should be answered.

CHIEF JUSTICE TERRELL: Answer the question, Judge Holt.

THE WITNESS: State the question.

BY MR. HOPKINS:

Q I asked you whether or not you became under the influence of whiskey at the John Jacob Astor party in the spring of 1955?

A No sir, I did not.

Q State whether or not you went to sleep on a couch at that party?

A No sir, I did not.

Q State whether or not you were at any time laying on the lawn, on the ground, out in front of the Astor home?

MR. SUMMERS: Mr. Chief Justice - -

THE WITNESS: I'll answer the question.

MR. SUMMERS: I would like to be heard, though, for this reason: It is now obvious from the proceedings before the House Committee that this gentleman on cross examination is trying to put himself in the position to bring a witness here on rebuttal that was before that Committee and that he has had here in Tallahassee to testify before the Senate, and sent him home. For that reason I object to it. They are trying to expand the case, trying to expand what they can go into on rebuttal.

MR. HOPKINS: If the Court please, we are trying to carry this on in orderly fashion. We have asked him on cross - -

CHIEF JUSTICE TERRELL: When was this other incident? What was the date of this last incident you asked about?

MR. HOPKINS: The spring of 1955.

MR. HUNT: Your Honor please, that was some five or six months before the specifications, so-called, laid against this Respondent in the Bill of Particulars, which, over our protest for three days here, were admitted, and counsel for three days screamed that they wanted to be fair and that they wanted to bind and limit themselves. Now, I don't think it is at all fair for them to start questioning this witness about any party, any occasion, that is not to be found in that Bill of Particulars. If so, then we have been hoodwinked.

MR. HOPKINS: If the Court please, I don't want to take up too much time, but I do want to be heard on this particular matter. In addition to the theory on which we have asked the question, I would like to also call to the Court's attention the fact that the defendant has elected to put his reputation in issue. He has had witnesses up here for character, and so forth, and we think we would be entitled to ask him about his drinking habits.

CHIEF JUSTICE TERRELL: I do not think that this is so remote that he can't answer the question. Answer the question. The objection is overruled.

THE WITNESS: State the question.

BY MR. HOPKINS:

Q The question is, did you at any time, while at the John Jacob Astor party in the spring of 1955, lay on the ground or the lawn near the premises or on the premises?

A I did not and I never have, in any place.

Q Judge, have you ever been arrested on any occasion other than the one that you testified about in regard to this accident?

A I was arrested in Daytona Beach, Florida.

Q What was that for, please?

A At five o'clock in the afternoon, for speeding thirty-five miles an hour in a twenty-five-mile zone.

Q And what was the disposition of that case?

A In that particular case I defaulted the bond, because I could not afford to go back up there - - and I can tell you the result of that case, if you want to know.

Q If you will, please?

A The zone in which I was arrested for going thirty-five-miles-an-hour, the minimum speed is now thirty-five miles an hour.

Q Now, Judge, I hope I'm not repeating, but do you have any reason why you told the Bar Committee one thing about what you remembered and the impeachment trial proceedings a different story?

A Because my memory had improved.

Q Judge, on this business of being able to remember, have people suggested or told you what you did?

A No sir.

Q By that I mean did you find out what you did from information gained since the occurrence?

A No sir.

Q Now, before the Bar Committee you reconstructed from what people had told you as to what had happened. Isn't that correct?

A No, I did not.

Q You didn't reconstruct what actually happened?

A I volunteered then to reconstruct what I thought had happened.

Q And you couldn't remember at that time what did happen?

A No sir, I could not, but I told them what I thought was the logical explanation.

Q Judge, is your memory now clear as to what happened at Riccio's?

A Yes sir, it is.

Q While you were there did anyone come in the place?

A Not that I remember.

Q Judge, isn't it true that while you were at Riccio's you were so intoxicated that you were falling against the tables?

A No sir, I was not. I didn't have a drink there. I had a big steak and a lot of spaghetti.

Q Do you remember being asked by the Bar Committee, "Do you have any theory on reconstructing the events of that evening, or has anyone advanced to you a theory where you may have been from eight o'clock until the time the accident took place?"

A I don't recall it.

Q Do you remember saying, "Well, yes. Most of the time I was at Riccio's, eating."?

A That's about right.

Q Do you remember being asked the question, "Did someone at Riccio's subsequently advise you?" and did you answer, "Advised the family, yes. I have not talked with them at all."?

A That's probably correct, I haven't talked to anybody about it.

Q Do you remember being asked the question, "Approximately what time did they advise the family that you left Riccio's, if you know?" and did you answer to that, "I don't know. I imagine around ten-thirty."?

A That was before the Bar investigators, was it not?

Q Beg pardon?

A That was before the Bar investigators?

Q The same thing that we have been reading from, before the Bar. Correct.

A That probably is what I said.

Q Isn't it true at that time - -

A Just a moment. I corrected that before the House Committee, Mr. Hopkins.

Q Then the next question was asked, one that I've already read, "Judge, would you repeat for the record the last thing you recall immediately prior to the accident?" and did you answer, "The last thing I recall is going home from the Beach."? Is that correct?

A I don't recall, no sir.

Q Now, Judge, what is your testimony here today about Riccio's - - is that from what you remember or what somebody else told you?

A It is what I remember.

Q But you were testifying in June of 1956 to approximately the same thing from what somebody else told you had happened at Riccio's. Is that correct?

A No. That was the best of my recollection at that time before the Bar investigating committee.

Q Judge, do you recall when you took the European trip, what date?

A I know we returned the first part of August, 1954.

Q If I call the date do you think you would remember? Was it July 29, 1954, that you arrived back in Miami?

A There is an itinerary here in evidence, furnished by the Farr Travel Service, that would be more accurate than I could be.

Q Now, who planned that trip?

A We all planned it together.

Q Who worked out the itinerary for the trip?

A We all worked out the itinerary.

Q Did you go to the travel agency at any time to work on the itinerary?

A No. We worked the itinerary out at home.

Q Judge, how much did that trip to Europe cost you?

A Let's see. The Pan American credit plan was for, I think, \$1,700. My wife borrowed a thousand dollars from the bank and she had \$500 of her own. My son had just graduated from Prep School and he had about three or four hundred dollars of his own. I think I had a hundred or so dollars, myself. I think the down-payment to the Farr Travel Agency was around \$800, and I think that I testified before the House Committee that it cost something over \$4,000 or maybe \$4,500.

Q Judge, I believe you testified last week that you went by the agency and picked up the tickets and paid the cash, yourself. Is that correct?

A That's correct.

Q I missed it if you gave me the approximate total of the cost of the trip.

A Sir?

Q I missed it if you gave me a total for the entire trip, if you are able to calculate that?

A I don't know the exact entire total - - something over \$4,000.

Q Judge, did you buy two new automobiles the same year?

A Yes sir, I did.

Q Did you buy a new Ford that you traded a Buick in on and paid in cash a difference of \$1,948?

A I don't know. My wife handled that, but I've still got that same car.

Q Did you also in the same year, on May 17, 1954, buy from Sam Murray a Ford convertible for which you paid, cash, \$2,943?

A Yes. My wife bought that for me, for a present.

Q Do you mind telling us where the money came from these two automobiles?

A She saved it.

Q Judge, what did she save it from?

A Well, she saved it from my salary; she saved it from rental property that we have in Miami, and also saved it from property that we have in Blowing Rock, North Carolina.

Q Judge, what bank did she keep her money in?

A The Peoples National Bank of Miami Shores.

Q Does she keep it in a savings account or a checking account?

A She has both.

Q Is that the same checking account that is a joint checking account, in her name and your name?

A Yes sir.

Q Judge, do you remember testifying before the Bar that you don't recall paying any cash money at the time you took that trip to Europe?

A I do not.

Q Do you recall a question being asked you as follows:

"Do you recall either yourself or your wife paying the sum of \$875 to the Airline prior to the time?" and you answered:

"No."

And the question, "You had departed?"

And the answer, "No, I don't."

Do you recall answering that?

A I recall the question, but, actually, I went over and paid the \$800 myself, in addition to a check for \$190 that my wife wrote - - which included the check, I mean - - not in addition.

Q Do you remember the further question being asked you:

"If such a sum had been paid by you or by your wife, do you feel that you would recall it?"

And was your answer:

"If it had been paid by her I would not recall it. You would have to ask her."

A I may have answered that way, yes sir.

Q Do you remember the question, "If the approximate sum of \$600 was paid in cash in addition to the \$199 by check as an advance on your plane fare, would you be able to advise us where the \$600 in cash came from?"

And did you answer, "Not unless it came from her."?

A That's correct. It came from her.

Q Was the question also asked you:

"Can you state of your own knowledge whether or not Mr. Kurlan paid approximately \$600 in cash on your behalf?"

And you said, "No sir."?

A That's right. He didn't pay anything on my behalf.

Q Judge, did you, during this period, buy any bank stock - - in 1956?

A 1956?

Q Yes sir, from 1950 until the date of this - -

A Yes sir. I have been buying some bank stock, with a note, and I have been paying for it by the purchase of a United States Savings Bond every month out of my wife's savings account.

Q Judge, when did your son finish school?

A Let me finish this.

Q Excuse me.

A And I still owe the bank - - I think it's around \$5,000.

Q Are you through?

A Yes sir.

Q Are you a member of the Bath Club of Miami Beach?

A No sir, I am not.

Q Were you a member at any time?

A Prior to this summer I have been what is known as a summer member.

Q Are you a member of the Cabana Club of the Robert Clay Hotel?

A Yes sir.

Q How long have you been a member?

A For several years.

Q And what is the expense of that?

A About six or seven dollars a month.

Q Is Mr. John Wright also a member?

A Yes sir, in the same cabana.

Q Do you pay for that cabana together?

A Yes sir.

Q Whose name is it rented in?

A I don't know. There are about seven or eight members in that same cabana.

Q Judge, referring to your financial records just a minute, just before receiving the \$2,800 from Mr. Whiteside in 1954, or January 4, 1954, you deposited \$2,000 in your account. Would you tell us where that \$2,000 came from?

A I don't handle the account, Mr. Hopkins, and I don't know whether Mrs. Holt got that from the Blowing Rock property or from the sale of bonds, or what. The House Committee has had our checks, our bank records, now, and the Bar has had our bank records and checks for the last two years, and I haven't had a chance to check them myself, personally. Does it state from your information where the \$2,000 comes from?

Q No sir. That's the reason I asked you the question. I can't find any source from which it came.

MR. HUNT: What was the deposit date, please, sir?

MR. HOPKINS: The deposit date was January 4, 1954.

Q Judge, immediately prior to your wreck how many automobiles did you own?

A Immediately prior?

Q Immediately prior to the wreck how many automobiles did you own?

A Including the Jaguar, four. No, wait a minute - - that's correct, four.

Q Was there a Ford Station Wagon bought February 16, 1954, for some \$3,336?

A I don't know what the price was. It included a 1954 Station Wagon; it includes a 1954 Ford convertible, and at that time it included the Plymouth automobile about which we have testified at length, which I sold to my daughter.

Q It included the Jaguar that you bought in July for \$2,834?

A Yes sir - - twenty what?

Q \$2,834?

A That's about right.

Q To summarize, now, Judge, at that time you had automobiles bought in 1954 and 1955, a Ford Station Wagon that you paid cash, a cash difference of \$1,948 for; a Ford convertible which you paid cash for, \$2,943; a Plymouth that you paid \$2,213 for, and a Jaguar that you paid \$2,834 for, making a total of automobiles of approximately \$9,938 in cash. Is that correct?

A I don't know whether they are worth that in cash or not.

Q Well, were the cash payments made for them?

A Yes sir.

Q How much, Judge, do you make as Circuit Judge?

A I don't know. I haven't been paid in so long I have forgotten.

Q How much were you paid in '54 and '55?

A I think it's \$17,000 or \$18,000 a year. If you will tell me what the state pay is I'll tell you what the County was paying.

Q Was your check about \$709 a month from the state?

A I never deposited the check, never saw it; but I think the state at that time was paying \$12,500 a year and I think the County was paying \$5,500 a year - - about \$18,000.

Q Judge, I believe I asked you, but you weren't through answering a question - - when did your son graduate from college?

A He is a Junior in college now.

Q He is still in college?

A Yes sir.

Q And he was in college in '54 and '55?

A Yes sir.

Q When did your daughter finish college?

A I think she finished college in 1950, and she went to summer school to graduate in the middle of the year, to lighten our load of having two children in college at the same time.

MR. HOPKINS: I believe I have no further questions.

MR. HUNT: If Your Honor please, may I ask if the House Managers have the testimony taken before the Investigating Committee, that we can borrow?

MR. HOPKINS: You mean the Bar?

MR. HUNT: Yes sir. Can I have a few minutes opportunity to check this record, Judge?

CHIEF JUSTICE TERRELL: The Senate will be at ease for a few minutes.

Whereupon, beginning at 4:00 o'clock, there was an informal recess until 4:15 p.m.

MR. HUNT: We are ready, Judge.

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

RE-DIRECT EXAMINATION

BY MR. HUNT:

Q Judge Holt, in relation to the Dowling matter was it your understanding that for a considerable and continuing period of time there was a dispute as to the place of legal residence of Mr. Dowling and Mrs. Dowling, particularly after they came to Florida in November of 1954?

A Yes, it was.

Q Did you understand that at that time your curators had been notified by the Massachusetts conservator that they would thereafter reside permanently in Florida?

A That's correct.

Q And is it also your understanding that Mr. Dowling's will, which is now under dispute, - - is under dispute - - recites that he was a resident of Dade County, Florida, when he made the will?

A That's my understanding, yes.

Q I would like for you to state to the Senate substantially the statement you made to the House about the general improvement of your health and memory from the time you appeared before the Bar Investigators in June of 1956, and the time of your appearance before the House Committee approximately a year later, as regards your recollection of events leading up to the accident?

A As I stated, when I appeared before the Bar Committee Investigators I was weak, run-down, had not recovered from the effects of my accident, and that later on, appearing before the House Committee, practically a year later, my general health had improved, and so had my memory, and I testified before them the same way that I have testified before the Senate.

Q Did you advise the House Committee that your health and memory had improved and that you recalled occurrences of the night of the accident up to the time that you started south and made up your mind that the dog would not be received at the party, and apparently turned around at some unknown place?

A I did.

Q Did you advise the House Committee, as you have testified before the Senate, of the evening meal you had at Riccio's and the occurrences leading up to your leaving Riccio's that night?

A I did.

Q Had you, prior to the time you saw Riccio and his waiters as witnesses before the House Committee, even so much as seen any of them, from the time of the accident?

A I had not, except when they were up here to testify, Judge Hunt.

Q I say before the House Committee?

A Yes sir.

Q Now, Judge, with respect to the European trip, you were questioned about who prepared the itinerary and you stated, I believe, "We all prepared it." Who do you mean?

A I mean Commander and Mrs. Kurlan and my wife and myself and my son. We generally agreed - - some of which was changed after we went to the travel agency because of, maybe, a lack of facilities or lack of proper transportation or something like that.

Q Well, were the maps and the brochures and the projected itineraries laid out before you and Mrs. Holt and did you participate in the selection of the itinerary?

A We did.

Q For what period of time, Judge Holt, have you been purchasing monthly a bond out of your salary, if you know?

A Since Bill Lantaff was in the House. I don't know when that was.

Q Can you state approximately?

A Can you tell me when he was in the House?

Q Do you mean the House of Representatives here or in Washington?

A Yes sir, the House of Representatives here.

Q Well, if he came to the House in '47, was that about the time you started purchasing bonds?

A July 1, 1947, yes sir.

Q So for approximately ten years you have followed a pattern of purchasing a bond each month?

A A hundred-dollar bond, yes sir.

Q Was that purchasable at a discount of \$75?

A Yes sir. It was deducted from the bank account at the bank.

Q Judge, this Bath Club membership, how expensive is that - - this summer club membership you say you participated in?

A About a hundred to two hundred dollars for the summer.

Q Is that for a family?

A Yes sir.

Q Did you occupy a cabana with another family?

A Shared a cabana with another family, yes sir.

Q Did you each pay your share of the cabana rental?

A Well, that fee paid for that.

Q I mean for the membership?

A Yes sir, we divided that.

Q Do a number of Miamians with children participate in that summertime cabana program at the Bath Club?

A It is primarily for the purpose of the children. They are on the ocean and they also have a swimming pool.

Q You have not been a wintertime member of the Bath Club?

A No sir. I couldn't afford it.

Q Now, state to the Senate what the Robert Clay situation is. Is that in downtown Miami?

A That's in downtown Miami. It has a cabana and - -

Q Where is it, specifically?

A It's in Dallas Park.

Q Well, is that about, roughly - -

A It's right on the Miami River.

Q About three blocks south of Flagler Street?

A Yes sir, on the Miami River.

Q And what is the layout, please?

A They have cabanas around the swimming pool, and I mainly go over there to eat.

Q Do they have a men's athletic room, with steam baths, and so forth, downstairs?

A Yes sir, they do, and I use that, mainly.

Q At what cost per month, Judge, does the cabana participation run you?

A It all depends on how many are in the cabana. There's quite a few. I can't name them all, because a lot of times I go there and it's occupied by people I don't even know, and I can't even get in. It runs about six or seven or eight dollars a month.

Q Now, when you go there you say you are served with a plate lunch or a sandwich or some light luncheon food like that?

A Yes sir. They have good food there.

Q Do you pay for your own food?

A Yes sir.

Q I believe you stated you are now indebted to the bank in the approximate sum of \$5,000?

A Yes sir.

Q Is that on monies advanced or upon pay-as-you-go stock purchase plan?

A I don't own much stock in the bank. Actually, the indebtedness first began when my daughter went to college and I borrowed a sufficient amount of money to take care of her college expenses.

Q Just how much stock do you own, if you know?

A I don't know.

Q Do you know what your approximate investment is in stock?

A No sir, I don't, but I don't own over probably a hundred and twenty-five shares of stock, out of a stock issue of several thousand.

Q Does Mrs. Holt handle all the family finances?

A She does.

Q Judge Holt, with reference to the fact that the dealer who sold the Plymouth automobile to you sent up to Tallahassee a certificate or invoice for some twenty-eight or thirty dollars difference, are you aware of whether or not the dealer himself absorbed any extra charge there might have been or whether Mr. Gersten paid it? Do you know anything about it?

A I do not.

Q Has Mr. Gersten ever mentioned it to you?

A He never has mentioned it to me.

Q During the time you were paying off the note obligation and having him figure the final balance down to the last day's interest, did he mention it in any of his correspondence which has been placed before the Senate?

A No sir, he did not mention it.

MR. HUNT: That is all.

MR. HOPKINS: The witness is excused.

(The witness left the stand).

MR. HUNT: Your Honor please, before the Respondent proceeds further or announces closed, we would like an opportunity to check through some of these records and to confer amongst ourselves and with the Respondent before we reach that final stage, and, if there's no objection, I would like to suggest a recess at this time.

MR. HOPKINS: If the Court please, we object very strenuously to that. We were told that they were going to close last Thursday at noon, and here it is late Tuesday, and we think that we're entitled to know when we should have our witnesses and when we're going to start rebuttal. We would like to continue with the hearing.

CHIEF JUSTICE TERRELL: How much recess do you want, Mr. Hunt?

MR. HUNT: Your Honor please, I think that, with about a fifteen-minute recess, we should reach our decision and be ready to proceed, if the Senate wants to continue and start out again, maybe, at a quarter to five.

SENATOR SHANDS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Shands.

SENATOR SHANDS: I move that we recess for fifteen minutes.

(The motion was seconded from the floor).

CHIEF JUSTICE TERRELL: You have heard the motion

that the Senate recess for fifteen minutes. All in favor let it be known by saying "aye."

(Those in favor of the motion so voted).

CHIEF JUSTICE TERRELL: Opposed, "no."

(There were no votes in opposition to the motion).

CHIEF JUSTICE TERRELL: The "ayes" have it and the motion is adopted.

Whereupon, beginning at 4:34 p.m., the Senate stood in recess until 4:49 p.m.

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

MR. HUNT: Your Honor please, subject to the Respondent's right to later call witnesses on surrebuttal, as he may be advised, we announced closed at this time.

MR. BEASLEY: Will the Court allow us a few minutes for consultation here?

CHIEF JUSTICE TERRELL: Yes.

(Whereupon counsel for the Managers and the Managers conferred briefly).

MR. HOPKINS: If the Court please, after consultation, we do not think that we have a witness that we can finish in the time allowed this afternoon. We would like to start with our witnesses in the morning.

SENATOR DAVIS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: I would like to inquire of both sides if they can be here at nine o'clock in the morning. Can you?

MR. HUNT: Yes sir.

MR. HOPKINS: Yes.

SENATOR DAVIS: Mr. Chief Justice, I move that we convene in the morning at nine o'clock.

(The motion was seconded from the floor).

CHIEF JUSTICE TERRELL: You've heard the motion of Senator Davis. It has been seconded. All in favor of, when the Court is adjourned, that it be adjourned until nine o'clock tomorrow morning - - all in favor of that let it be known by saying "aye."

(Those in favor of the motion so voted).

CHIEF JUSTICE TERRELL: Opposed, "no."

There were no votes in opposition to the motion.

CHIEF JUSTICE TERRELL: The motion is adopted.

SENATOR DAVIS: I move you, sir, that we do now adjourn, Mr. Chief Justice.

(The motion was seconded from the floor).

CHIEF JUSTICE TERRELL: All in favor of adjourning let it be known by saying "aye."

(Those in favor of the motion so voted).

CHIEF JUSTICE TERRELL: Opposed, "no."

(There were no votes in opposition to the motion).

CHIEF JUSTICE TERRELL: The "ayes" have it. Court is adjourned until nine o'clock tomorrow morning.

Whereupon, the Senate, sitting as a Court of Impeachment, adjourned at 4:44 o'clock P.M., until 9:00 o'clock A.M., Wednesday, August 14, 1957, pursuant to the motion made by Senator Davis, this day.