

SITTING AS COURT OF IMPEACHMENT

JOURNAL OF THE SENATE

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Monday, July 29, 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, July 26, 1957.

The Chief Justice presiding.

The Managers on the part of the House of Representatives, Honorable Thomas D. Beasley and Honorable Andrew J. Musselman, Jr., and their attorneys, Honorable William D. Hopkins 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	Carlton	Getzen	Morgan
Barber	Carraway	Hair	Neblett
Beall	Clarke	Hodges	Pearce
Belser	Connor	Houghton	Pope
Bishop	Davis	Johns	Rawls
Boyd	Dickinson	Johnson	Shands
Brackin	Eaton	Kelly	Stratton
Branch	Edwards	Kicklitter	
Cabot	Gautier	Knight	

—34.

CHIEF JUSTICE TERRELL: There is a quorum present. Senator Knight will pray for us.

SENATOR KNIGHT: Our Divine Heavenly Father, as we again enter into the Trial of this cause we humbly beseech that we may have Thy Divine guidance.

We realize that our weaknesses are many and that we are frail, and, in the position that we hold, we realize that we owe a duty first to our God, next to our State and next to our fellow man. Do give us wisdom, through the medium of our consciences, that we might act any way that would be pleasing in Thy sight, acceptable to our State and just in the minds of our fellow men.

We are reminded that our Saviour on one occasion charged His listeners that they might render unto Caesar the things that are Caesar's—and to us our State is our Caesar. We are also reminded that on one occasion our Saviour reminded His listeners, "If there be one among you who is without sin, let him cast the first stone."

When we think of all these mandates issued by our Saviour, then we wonder if we are capable of filling the responsibility that is now ours, and it is with this spirit of humiliation, Our Heavenly Father, that we humbly beseech Thee to give us Divine guidance, to give us courage, to forgive us for our own sins and shortcomings, and make us worthy of this trust that is reposed in us.

These things we ask in the name of Christ, our Saviour.

Amen.

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 Friday, July 26, 1957, was dispensed with.

The Senate daily Journal of Friday, July 26, 1957, was corrected and as corrected was approved.

SENATOR SHANDS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Shands.

SENATOR SHANDS: I have a telegram here Mr. Chief Justice, from Senator Stenstrom which I would like the Secretary to read.

CHIEF JUSTICE TERRELL: Very well.

SECRETARY DAVIS: (Reading) Dated July 29, addressed to Senator Shands.

"Just advised Miami Eastern Airlines Flight 180, due Tallahassee 10:00 a.m., terminated at 11:00 a.m. at West Palm Beach due to mechanical trouble. No replacement plan. Have chartered private plane, estimated arrival 3:00 p.m."

Signed, "Douglas Stenstrom."

SENATOR DICKINSON: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Dickinson.

SENATOR DICKINSON: And Members of the Court: Having experienced something of the same plight about a week ago, I hasten to rise to offer a suggestion that, in view of the fact that I believe Judge Hunt's plan is to continue cross examination of the same witness that Senator Stenstrom and the rest of us have heard on Friday, and prior thereto, that he be excused during this hour of absence in order that his private plane can get here. I am certain that he will familiarize himself with all the testimony that is adduced during the period of his absence, and I move you, Mr. Chief Justice and Members of the Court that his excuse be honored in accordance with the reasons submitted in the telegram.

(The motion was seconded from the floor).

CHIEF JUSTICE TERRELL: Gentlemen, you have heard the motion and the second—

SENATOR JOHNS: Mr. Chief Justice?

CHIEF JUSTICE TERRELL: Senator Johns.

SENATOR JOHNS: I would like to inquire of the Court if we're going to extend this courtesy and this privilege to every member, because I want to tell you now, gentlemen, I risked my life the other morning for a hundred and fifty miles to get here on time.

I mean we're just going to have to make arrangements to be here. Airplanes are uncertain, everything is uncertain. I just want to know are we going to extend each and every one of us this courtesy. I don't object to extending this courtesy to the Senator, but I want it extended to me if such as that happens to me. I mean that's the only question I'm concerned about.

CHIEF JUSTICE TERRELL: It seems to me, Senator Johns, that when a Senator offers an excuse like this there is nothing else to do but excuse him temporarily. He has made every effort he could to get here, and failed because of trouble with his plane; but you have heard the motion. There is a second. 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. The motion is adopted.

SENATOR RAWLS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Rawls.

SENATOR RAWLS: Just for the record, I move that the rules be waived concerning Senator Stenstrom's absence and that such waiver of the Rules for that period of his absence be entered in the record.

CHIEF JUSTICE TERRELL: Is there any second to the motion?

(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."

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

CHIEF JUSTICE TERRELL: The "Ayes" have it. The motion is adopted.

MR. MUSSELMAN: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Mr. Musselman.

MR. MUSSELMAN: Before we commence on the interrogation, one witness has been served, Mr. Leonard J. Feitelson, of Miami, and we noticed in the paper that he was reported to have said that he hadn't the funds to come to Tallahassee and was not going to come.

We need his presence here, sir, and would like for the Senate to secure his presence here in accordance with the subpoena.

CHIEF JUSTICE TERRELL: Make a motion, then, that an attachment be issued for him, under the Rules. I take it that that is what your motion is, isn't it?

MR. MUSSELMAN: I suppose so.

CHIEF JUSTICE TERRELL: Do we have a second to the motion?

SENATOR BELSER: We didn't understand the motion, Your Honor.

CHIEF JUSTICE TERRELL: Will you state that motion again, Mr. Musselman?

MR. MUSSELMAN: I would like to move that an attachment be issued for the witness, Leonard J. Feitelson, who, according to the records of the Secretary of the Senate has been served with subpoena and is not present.

MR. HUNT: If Your Honor please, may I interpolate at this point the fact that I have heard from two of the Respondent's witnesses who were supposed to be in the small batch that we intended to have here Wednesday, and their attitude is not at all adamant. It is just that they don't have the funds with which to come to Tallahassee; and, as to my witnesses as well as to opposing counsel's witnesses, I rather question the premise of issuing an attachment against some of these people, who may not be able to come to Tallahassee and who have not been tendered their traveling expenses. I just interpolate that for what it might be worth.

CHIEF JUSTICE TERRELL: I might state that the Rules require the Senate to compel the attendance of witnesses here and that is the usual process that is exercised to compel the attendance. Perhaps a better process, though, would be to send them the money to get here and tell them to come.

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

CHIEF JUSTICE TERRELL: Mr. Musselman, Senator Eaton - -

SENATOR EATON: Was this man tendered a check along with his subpoena?

MR. MUSSELMAN: I do not believe that that was the practice in issuing the subpoenas, Senator Eaton.

SENATOR EATON: But that practice has been adopted after the trial got under way now, hasn't it?

MR. MUSSELMAN: I don't believe it has as yet, Senator.

SENATOR SHANDS: No, it hasn't.

SENATOR EATON: Is there any showing that this man is able to come, financially?

MR. MUSSELMAN: I do not know the reason for his not being here except there was an article in the paper that he did not have the funds and would not be here as a result of that.

May I suggest to the Court that perhaps some policy should be adopted by the Court along that line. I am not adamant about an attachment and I certainly understand the gentleman's trouble if he has no funds with which to get here.

SENATOR SHANDS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Shands.

SENATOR SHANDS: If the Senate will agree with me, if they do not have the money and if they will advise me, I will issue a check and send the money to them. I am just bringing that out to the Senate so that if the Senate objects they can say so.

CHIEF JUSTICE TERRELL: I call your attention to Rule Six, which, among other things, says that the Senate shall have the power to compel the attendance of witnesses and enforce obedience to its orders, and so forth. You're all familiar with that Rule, I take it. Senator Shands has suggested that, and that is perhaps a better way to secure their attendance, if you approve that.

Is that satisfactory to you, Mr. Musselman?

MR. MUSSELMAN: Mr. Chief Justice, may I withdraw our motion for an attachment, then, please?

CHIEF JUSTICE TERRELL: Mr. Hunt, is that satisfactory?

MR. HUNT: Yes, sir.

CHIEF JUSTICE TERRELL: That will be the order, then.

SENATOR EATON: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Eaton.

SENATOR EATON: Mr. Chief Justice, do we understand that the suggestion of the President will be followed and that the man will be sent a check?

CHIEF JUSTICE TERRELL: Yes, that is my understanding.

Are you ready to proceed, Mr. Hunt?

MR. HUNT: Yes sir. Are the Managers ready to proceed?

MR. MUSSELMAN: Yes.

Thereupon,

DANIEL N. HELLER,

a witness previously called and duly sworn and who previously testified, was further examined and testified further as follows:

FURTHER CROSS EXAMINATION

BY MR. HUNT:

Q Mr. Heller, I believe on Friday, on the check list of orders entered by Judge Holt in the Dowling Case, as recollection serves me, we had arrived at the order of April

15, 1954, directing the guardian ad litem's appointment. Is that correct? Do you recall?

A Yes sir, that is correct.

Q Will you please state to the Senate what the Court had before it at the time of the entry of that order, in substance?

A I, as guardian ad litem - -

MR. HUNT: You are a little loud. Just push that microphone away a little bit.

A (Continuing) I filed a motion for the appointment of an attorney in a foreign jurisdiction.

Q Filed what?

A Filed a motion for the appointment of an attorney in a foreign jurisdiction.

Q What foreign jurisdiction?

A The Commonwealth of Massachusetts. I filed this motion as guardian ad litem for Mr. Dowling and recited various factors which had come to the attention of me as guardian ad litem, and to the Court, to wit, the proceedings which had been begun in the Commonwealth of Massachusetts, and asked the Court for instructions as to what action I should take in order to properly represent the ward in regard to that litigation and with regard to those actions. I sent a copy of that to the attorney for Mrs. Dowling and to the firm of attorneys for Mr. Dowling; and the Court did then, on April 15th, after hearing, enter its order instructing me as guardian ad litem to appear in the Commonwealth of Massachusetts to protect the rights and property and things of Mr. Dowling and to employ Massachusetts counsel if that was necessary.

Q And what was the pending action in Massachusetts, briefly?

A Mr. George Gilman, who was a banker friend of Mr. Dowling from Massachusetts, had begun an action in the Massachusetts Courts to have himself appointed as conservator of the property and assets of Mr. Dowling in the Commonwealth of Massachusetts. It was reported to me as guardian ad litem that the Massachusetts Court, without a hearing, had appointed Mr. Gilman as temporary conservator.

Mr. Perlmutter, who was then the Florida receiver, did then fly to the Commonwealth of Massachusetts and did bring to the attention of the Massachusetts Court that he, Mr. Perlmutter, was the Florida receiver for Mr. Dowling.

The Massachusetts Court did then set aside the order which appointed Mr. Gilman as temporary conservator and did substitute Mr. Perlmutter, who was then appointed as temporary conservator under the laws of the State of Massachusetts over Mr. Dowling's property.

Q Does that complete your statement?

A Yes sir.

Q That order is found in the Court file?

A Yes sir.

Q Number ten, an order entered by Judge Holt which stayed the receiver as to Ina I. Dowling, on April 19, 1954. Will you state what was before the Court at the time of the entry of that order and, in substance, what the order is?

A There was filed before the Court, for and on behalf of Ina Dowling, a petition for re-hearing, filed by the law firm of Lane-Muir. This petition for re-hearing, which is signed by Mr. Lane, under oath, has affixed to it, as well, a three-page affidavit by him. There is also affixed to this affidavit a report of a medical doctor, Paul Kells, who had previously examined Mr. Dowling and who had now examined Mrs. Dowling.

In essence, this petition challenged a statement made by Mr. Dowling's lawyers that Mrs. Dowling's stocks had been lying around in a loose and disorderly manner, and the medical opinion rendered at that time seemed to indicate that Mrs. Dowling was probably capable of choice in selecting someone to manage her properties efficiently and honestly

and properly, and so this was brought on for hearing before the Court.

Q Now, I believe prior to that time the Court had appointed Mr. Perlmutter as a temporary receiver for the properties of both Mr. and Mrs. Dowling. Is that correct?

A That is correct, sir.

Q The purpose of this petition, roughly speaking, was to lift the receivership as far as Mrs. Dowling was concerned. Is that correct?

A Correct, sir.

Q Did the Court have a hearing on that petition?

A Yes, it did, and on the 19th of April it entered its order.

Q Now, the essence of the order, please?

A The essence of the order was that it did grant a re-hearing on the subject matter of a temporary receiver of the property of Ina Dowling, and the effect of the Court's order was to stay or restrain or enjoin the receiver of Ina Dowling from proceeding until the further order of the Court.

Q The net effect was to permit Ina Dowling to take care of her own property, was it not?

A Yes sir.

Q Now, Number eleven, April 19, 1954, an order authorizing domestic help. Will you state what was before the Court and what action the Court took?

A As guardian ad litem, I filed a motion to engage and employ certain domestic help. I recited that the wards were living on Miami Beach, that they had no help at that time to help serve them; that they were accustomed to having such help, and I asked for permission of the Court to go out and to employ someone to cook their meals or serve them in any way which would make it more comfortable and enjoyable for them.

The Court did on the 19th of April authorize me, as guardian ad litem, to go out and to engage and employ such domestic help and servants as may be advised, then the Court instructed the receiver to pay such compensation for that domestic help.

Q What did you do pursuant to that order?

A I went out and called several employment agencies and sought to get suitable help to serve these people.

Q Well, what was the net result?

A The net result was that we were successful in obtaining a servant who served Mr. and Mrs. Dowling.

Q One servant?

A There was a husband and a wife at that time.

Q How much did you have to commit the estate for to employ that help, if you recall?

A From memory, approximately \$125.00 per week.

Q That was for the couple?

A That was for the couple.

Q How long did they stay? Do you know?

A My memory is that the Dowlings left within the next month or month and a half for Massachusetts, so I would think that that couple was employed no longer than four or five weeks.

Q Very well. Order of April 19th, authorizing withdrawal of exhibits?

A This was a motion filed by Mrs. Dowling's lawyers, Lane-Muir, asking the Court that they be permitted to withdraw from the original Court file original exhibits which they had introduced, such as leases, checks, ledger sheets, and substitute in lieu thereof photostatic copies.

Q Did the Court permit that by its order entered on that date?

A The Court entered its order permitting and authorizing the withdrawal of those exhibits.

Q Now, Number thirteen is an order of May 21, extending time for taking testimony. On whose motion or petition was that order entered?

A I find a motion to extend time to take testimony, filed by the attorney for Mrs. Dowling, asking the Court to extend the time beyond the statutory sixty days within which to take testimony before the Chancellor, in which are set forth the various factors which have occurred in Massachusetts and reciting to the Court the necessity of bringing the testimony of the Massachusetts witnesses to the Florida proceedings.

Q The next is an order of May 21, 1954, to receiver to pay money. What was that?

A Apparently a claim had been filed against the receiver by one David L. Cooper, complaining that there was owed to him the sum of \$835.57. The Court, by its order, directed the receiver to pay this man, who I believe was the former ship Captain of Mr. Dowling, and the receiver and petitioner were instructed to go to the Customs Office and sign said Captain off as of the 21st day of May, 1954, which was the date of the entry of said order.

Q Very well. The next is order of June 16, 1954, dismissing receiver's suit against a tenant. What was that order?

A The receiver had filed - - -

Q That was Mr. Perlmutter?

A The receiver, Mr. Perlmutter, had filed a petition before the Court concerning the Milgram-Moseley lease situation, and there had been filed on behalf of Moseley a motion to dismiss the petition filed by the receiver. It apparently was set down for hearing before Judge Holt, who did on the 16th day of June, 1954, enter an order dismissing the petition filed by the receiver.

Q The next is an order of June 21st, limiting time to take testimony. Do you have that handy?

Yes, Judge, I do. The order recites that it came upon the motion of Ina Dowling's lawyers, and recites all the various parties before the Court.

Q Is that Mr. Lane's firm?

A Yes, sir, it is. It limited, from that date, twenty days within which to take testimony on the subject of Mrs. Dowling, and it said that all matters would come before the Court for consideration on the date of July 12, 1954, at 10:00 o'clock a.m.

Q The next is "Order of June 22, 1954, appointing curators."

A Yes, Judge. On the 22nd day of June, 1954 the Circuit Court found in favor of Mrs. Dowling on her original petition against Mr. Dowling, and appointed John W. Prunty and Daniel Neal Heller as curators for the estate of Mr. Dowling, requiring that a bond in the amount of \$25,000 each be provided for, and instructed the receiver to immediately and forthwith turn over to the curators all of the assets belonging to Jewell Alvin Dowling and then in his possession, and the Court retained jurisdiction for further hearings.

Q Did you and Judge Prunty each give the \$25,000 bond?

A Yes sir.

Q Is that bond still in full force and effect?

A Well, at the time of the death of Mr. Dowling we were released of responsibility under that bond.

Q Next is "Order of June 23, 1954, amending and clarifying appointment." Please state what that order was.

A This was an order which said that after the curators had filed their bonds and qualified as curators, that they might, in the absence of the other, or in an extreme emergency, act for and on behalf of the incompetent.

Q That was signed by Judge Holt?

A That was entered by Judge Holt on the 23rd day of June, 1954.

Q The next is "Order of June 25, 1954, to sell boat." I believe that order was commented on at some length Friday. Was there a petition or motion before the Court?

A Yes sir, there was a motion.

Q Give the crux of it.

A The motion recited that Mr. Dowling had these two motor vessels, that they were extremely old; that the maintenance and upkeep was expensive and costly and disproportionate with their need and use; that we recently had had to pay \$935.57 - - - that is, the estate had to - - - to this David Cooper, as Captain of the vessels; that at the present time the vessel was being stored at the Miami Beach Boat Slip, and that the cost of storing the boat was running into a large sum of money; and we presented unto the Court that Mr. Dowling himself had asked at least one yacht broker in the area to arrange for the sale of the vessels; that there was no immediate need for the vessels by Mr. Dowling; that the receiver, Mr. Perlmutter, had tried unsuccessfully for several weeks to sell these boats but had received no legitimate offers therefor; that we had received some offers for the boats, and we pointed out to the Court that it might be unfair to have a private sale rather than a public sale, and we asked the Court for instructions as to what to do in the matter, and we asked for authority to advertise the vessels in the Miami Beach Sun and the Miami Herald and asked for the right to prescribe that sealed bids would be opened publicly, asked for the right to insist that such sealed bids should be accompanied with a ten percent cash deposit and we asked for the right to discharge the monthly storage charge, which would fall due on July 1, 1954, against both vessels.

Q Did you state in your testimony Friday that the Massachusetts representative of Mr. Dowling's estate had likewise requested of you, for you and Judge Prunty, by letter, that these boats be sold?

A Yes sir. We had several letters from Robert W. Meserve, the Massachusetts conservator on that.

Q Do you have those letters with you?

A I do.

Q I don't require them. I just wanted to know if you had them with you. Now, Number twenty on the list, "Order of July 15 to sell house and pay bills on boats." Will you state what the Court had before it and the essence of the order?

A There was filed before the Court, by Judge Prunty and by myself, a petition for clarification and for leave to sell certain real property, the first paragraph reciting the permission given to the curators to sell the vessels and the right to the curators to reject sealed bids and, second, we recite to the Court that we have advertised these vessels and that attached hereto are the advertisements themselves. We received three sealed bids.

Q Were those ads attached to your petition?

A They are, Judge.

Q Go ahead.

A We received three sealed bids, one for \$2,100.71, one for \$2,652.00 and one for \$3,119.00, for both vessels. The curators say that they have rejected those bids.

Q Were those bids from brokers or from private individuals?

A I think that one of them was a broker. I think two of them were private individuals.

Q Go ahead.

A We then recited that on the day of June 30th we had received from one gentleman a bid of \$7,250.00 on both motor vessels and that we did receive \$1,275.00 earnest money, and a proposed closing statement to close on the vessels ninety days hence.

Q That was better than twice the amount of the highest sealed bid which you received?

A Yes sir, it was.

Q Go ahead.

A And we found that these boat slips had bills for repairs against these vessels in the amount of \$1,700.00, unpaid bills and Judge Prunty and I had gone to the boatyard to discuss that with these people. We recited to the Court that Mr. Dowling owned a two-story dwelling house at 1100 Bay Drive, and I recite that right alongside this house is a larger house which is owned by Mrs. Dowling, in which the parties had always lived. I recite that the house on the corner, the one we were petitioning about, was quite old and, as far as we had known, had never been used other than as a guest house and, in that connection, quite infrequently; that it was expensive and costly to keep up this house and pay taxes and - - -

Q Let me ask you this. Had you received any suggestion from the Massachusetts representative as regards that extra house?

A Yes sir. He wrote us a letter and said it was the desire of Mr. and Mrs. Dowling that that house be sold.

Q Do you have that correspondence?

A Yes sir, I have it here.

Q Very well. What order did the Court enter?

A The Court approved the rejection of the sealed bids on the boats and approved the private deal for the sale of the boats, which was attached thereto, and authorized the curators to advertise and offer for sale Mr. Dowling's house, this corner house at 1100 Bay Drive.

Q What was done under that order?

A We immediately employed two real estate brokers and gave them keys to the house. I personally went to the house and put a sign on the door, pasted it on the inside, giving Judge Prunty's name and my own, with our office phone numbers and home phone numbers, and we widely advertised the property up and down the Beach - - - spoke to many real estate brokers and other interested persons. We employed appraisers to go out and appraise the property.

Q Who were they?

A That was P. L. Watson and Mr. McKey.

Q Adrian McCune?

A No, Mr. McKey - - - M-c-K-e-y.

Q Did they appraise the property?

A Yes, they did.

Q Did they furnish written reports?

A They furnished written reports, which were then sent to Mr. and Mrs. Dowling for their perusal.

Q What value did the appraisers place on the house, according to the file?

A Sir, these appraisal reports are missing from the Court file. I think, from memory, that there was one appraisal report in the neighborhood of twenty-six or twenty-seven thousand dollars.

Q Do you know whose that was?

A I think that was Mr. Watson's report.

Q Would you say twenty-six or twenty-seven?

A I can't - -

MR. HUNT: Mr. Musselman, do you have any other reports?

MR. MUSSELMAN: That is all that we have in our possession. I think it must be there somewhere.

Q Well, let's let it go for the present and try to find it later on in the recess, perhaps. Do you recall what Mr. McKey's evaluation of the house was?

A Yes sir.

Q What was it?

A \$35,000.00.

Q And Mr. Watson was \$27,000 and Mr. McKey was \$35,000?

A Yes sir.

Q What did you do after receiving those appraisal reports?

A We continued to offer the property for sale and we received a bid of \$29,500, based largely upon the problem of filling in the back yard, which had been completely cut out for a useless boat slip.

Q You say the back yard had a boat slip in it?

A Yes sir.

Q You mean cut in from the bulkhead, into the yard?

A That's right. There was no yard left after making this bulkhead, with the result that it accumulated all the neighborhood garbage.

Q Do you have any pictures of that boat slip?

A They are attached, I'm positive.

Q Attached to what?

A To these appraisal reports which are not here in the file - - or which I don't find.

Q Were they all later laid before the Court?

A They were, yes sir.

Q Well, let's go ahead. What was done, now, with respect to the bid, I think you said, of \$29,500?

A Well, an agreement for sale and deposit receipt were made up and, since Mrs. Dowling had a dower interest in this property, the appraisal reports, the correspondence, the report of the brokers and the offer to buy this property, were sent to Mrs. Dowling in Massachusetts, and a copy was sent through the Massachusetts conservator, and Mrs. Dowling has an exchange of correspondence - - in fact, several exchanges there. After that she affixed her signature to this agreement of sale and deposit receipt, and all of this was brought to the attention of the Court by a photostatic copy which was attached to the petition which was filed by the curators to the Court.

Q Did Mrs. Dowling have legal representation in Massachusetts?

A Yes sir. We corresponded with Attorney Arthur J. Martin, who represented her in this regard; and when the property was, in fact, sold, Mr. Martin secured Mrs. Dowling's signature and consented to a warranty deed which conveyed her dower interest in this property.

Q So Mrs. Dowling herself, prior to her later adjudication and at a time when she was in Massachusetts, signed both the agreement for sale and deed which made the conveyance?

A Yes sir.

Q Is that correct?

A Yes sir.

Q The next item is Number twenty-one, "Order dismissing counter claim and discharging receiver." What was that?

A The Court, on the subject of a curator - -

Q That was Judge Holt, now?

A Judge Holt - - did, on the 21st day of July, enter its order dismissing the complaint of Mr. Dowling asking for the appointment of a receiver or curator for Mrs. Dowling. It then discharged Mr. Perlmutter as temporary receiver of the property of Mrs. Dowling. It approved the report which was filed in the Court file of the receiver by his accountants, and the Court reserved the jurisdiction to dispose of any matters not expressly disposed of by the order.

Q Now, do I understand that Mrs. Dowling had also been examined by two psychiatrists prior to that time, under Judge Holt's order?

A Yes sir, that is correct.

Q Were the two psychiatrists in agreement as to her condition or did one or both of them leave some doubt as to her condition?

A There was divided opinion between the two physicians.

Q Who were they?

A Doctor James F. Anderson and Doctor Paul Kells.

Q Do you recall or do the files reflect the report, in essence, of those two doctors as to her condition?

A From memory, both Doctor Anderson and Doctor Kells indicated that she was probably not capable of handling and managing an estate of any magnitude, but Doctor Kells strongly inclined to the position that, by virtue of her training and background, she was capable to employ or seek the services of some high type, ethical firm, institution or individual, who would properly safeguard her interests.

Q And the other doctor?

A The other doctor was not as strong as Doctor Kells on the subject matter of whether or not she would, in fact, secure someone, but he did feel that the basic difference between Mr. Dowling and Mrs. Dowling was that Mr. Dowling would never admit at all that there was anything wrong with him. Mrs. Dowling, on the other hand, would be the first to admit that she just didn't have it.

Q Mrs. Dowling, as I understand it, was an educated and refined person, with a good background and education?

A She was a very refined, gentle person. She had a background in music at a Conservatory and was very sweet and an agreeable person, very nice to be with.

Q Now, by dismissing the counter-claim Judge Holt refused to adjudge Mrs. Dowling as an incompetent, and dismissed Mr. Dowling's counter-claim and discharged the receiver, which restored all of Mrs. Dowling's estate back into her hands. Is that correct?

A Correct, sir.

Q The next, item twenty-two, July 27, 1954, order to turn over certain securities to Attorney Lane. What did the Court have before it on that occasion?

A Judge, as you know, these orders are completely mixed up.

Q I know. Do you remember?

A I do, from memory.

Q What was it?

A You recall, sir - -

Q Let me state it in substance. Was the petition by Mr. Lane stating that certain securities had been brought from Mr. Dowling's office to Florida and that they, in fact, belonged to Mrs. Dowling and should be surrendered to her?

A In effect. It was the curators themselves who were filing a petition before the Court.

Q You and Judge Prunty filed the petition?

A That's right.

Q Go ahead.

A We recited to the Court that we had in our possession various of these securities, savings bank books, and we told the Court that demand was being made on us for these securities by Mrs. Dowling, through the person of Mr. Lane and by the Massachusetts conservator, and we asked the Court for instruction or direction as to what to do with these liquid securities.

Q You, in effect, asked the Court to adjudicate the question of ownership of those securities, by your petition?

A Yes, sir, in effect.

Q Was a hearing held?

A Yes sir, there was a full hearing.

Q Now, what was the order?

A The order was entered on the 27th day of July by Judge Holt, directing and instructing the curators to turn over to Mr. Lane, as attorney for Mrs. Dowling, all of the securities which were listed in the petition, in Exhibit A.

Q Will you state whether or not Mrs. Dowling was then in Miami at that time or was she still in Massachusetts?

A She was in Massachusetts.

Q So you were instructed to turn over those securities to her attorney of record. Is that correct?

A Yes sir.

Q Was that instruction carried out?

A Immediately.

Q And did you procure a receipt from Mr. Lane for those securities, for the surrender of those securities?

A Yes sir.

Q Now, the order of October 5, 1954, ratifying deposit receipt and authorizing sale of house. Is that the same house we were just talking about?

A Yes, Judge, it is.

Q Did that authorize the sale of the house for \$29,500?

A Yes, Judge, it did.

Q In accordance with the agreement of Mrs. Dowling and of the curators to sell the property?

A Yes, Judge.

Q Was that the highest bid that was received for it?

A That was the highest and best bid that was received, after much advertising.

Q Now, by this time, October 5, 1954, had you been to Boston?

A Yes sir, I had twice been to Boston prior to October 5, 1954.

Q What other Court appointees had gone to Boston?

A Mr. Perlmutter, as receiver, has several times been to Boston. I know that Mr. Lane, Mrs. Dowling's lawyer, had twice been to Boston, because I think we made one trip together. I know that Mr. Lehrman had two or three times been to Massachusetts, and I know that Mr. Klein had been to Massachusetts at least one time, on which occasion I saw him.

Q Will you state briefly what your services in Massachusetts consisted of?

A There were two separate hearings for which I had gone to Massachusetts prior to that date. The first was a hearing before the Massachusetts Court on the subject matter of the appointment of a permanent conservator for the assets of Mr. Dowling. This was a full day's hearing in the Massachusetts Court. There was another occasion on which I went to the Commonwealth of Massachusetts, and that was in connection with a deposition which Mr. Lane, I believe, had scheduled in Boston, and there were several hundred pages of depositions of various witnesses, including an accountant, physicians, and so forth.

Q How many days, would you say, up to that time, you spent traveling to and from and in Boston?

A Not more than five days.

Q The next is the order of October 21, 1954, payment of fees?

A Yes sir.

Q I believe that was gone into rather extensively on Friday. Is that correct?

A Yes sir.

Q The next is the order of November 19, 1954, to employ

domestic help. Had the Dowlings at that point returned to Miami?

A Yes sir.

Q Will you state what the situation was?

A The Dowlings returned to Miami approximately at Thanksgiving of 1954, and brought with them a man named Stanley Heilman.

Q Heilman?

A Heilman. He had been a - - -

Q Just a moment. Was he the man about which there was testimony Friday, who procured a general power of attorney from Mrs. Dowling and proceeded to order the sale of some of her securities?

A Yes sir.

Q Very well. Go ahead. They brought him down from Boston with them. Is that right?

A That's right; and the Massachusetts conservator sent me a few letters concerning him. He had been employed first by the Massachusetts conservator for Mr. and Mrs. Dowling. The Massachusetts conservator had established his weekly pay at \$150.00 per week, salary, and, in addition, \$100.00 as living expenses, a fund for living expenses for Mr. and Mrs. Dowling, from which were paid their food bills and other necessaries. Judge Prunty and I petitioned the Court, reciting that this man had come from Massachusetts well recommended by the Massachusetts conservator, and we asked the Court for instructions as to his employ.

Q What was the Court's order, in essence?

A The Court entered an order authorizing us to employ this Mr. Heilman, reciting his salary and reciting this revolving weekly fund with which Mr. and Mrs. Dowling would be well taken care of.

Q Did the Court authorize that?

A Yes, Judge, on the 19th day of November.

Q Was that the same amount of money that the Massachusetts conservator had established, in each instance?

A Yes sir.

Q Number twenty-six is an order of January 4, 1955, with reference to establishing a protective custodyship of Mrs. Dowling. Upon what was that order predicated and what did the Court have before it?

A Judge Prunty and I had prepared a petition for the appointment of a curator for and on behalf of Ina Dowling, in which were recited that Mrs. Dowling was - - her age, her then condition, and there was recited to the Court that Mrs. Dowling had given this blanket power of attorney about which we spoke at length last week to Mr. Heilman, and that Mrs. Dowling had not been aware of the fact that she gave that power of attorney, and the petition asked the Court to take jurisdiction and to appoint a committee of physicians to examine Mrs. Dowling and to appoint a guardian ad litem to represent Mrs. Dowling, and that a copy of the petition be served personally upon Mrs. Dowling, so that she would know what was happening and could be present personally at the hearing before the Court; and asking that, in view of the position taken by this Mr. Heilman, that a Sheriff be placed in their house to protect Mr. and Mrs. Dowling from Mr. Heilman.

Q Had Mrs. Dowling informed you at that time that she feared Mr. Heilman?

A Yes sir, she had and Mr. Dowling had.

Q Prior to the entry of this order, had you talked to Mr. Heilman, or how did you discover that he had this power of attorney?

A Mr. Heilman came to my office a week earlier to show me the power of attorney, to ask my opinion, as an attorney, as to whether or not this power of attorney was good and sufficient under Florida law so that he could take it to the Court House and record it. I did not know anything about

the power of attorney and I asked if I could examine it and he permitted me to do so, and I read it and found that, by it, Mrs. Dowling had given him power over everything that she owned, both real and personal property. I reported that immediately to Judge Prunty and he asked me to make further investigation, which I did. I then went to the Dowling home and spoke to Mr. Dowling, in confidence, and he then confided in me as to what had been happening in the last several days and told me that Mr. Heilman was a drunkard and that they were both terrified of him, and that he, Mr. Dowling, had no knowledge of what Mrs. Dowling had signed, and that he was sure that she did not know what she had signed. I then checked with her, in confidence, and she denied having signed any such paper.

Q Mrs. Dowling denied having signed the paper. Is that right?

A Yes, that is correct, Judge.

Q Upon that situation, you returned to the Court and filed a petition for the appointment of doctors to re-examine Mrs. Dowling. Is that correct?

A That's right.

Q Now, what was the crux of the Court order which established a protective custodyship of Mrs. Dowling?

A Well, the Court order directed the Sheriff to place himself upon the property at 1120 Bay Drive, and to there protect Mrs. Dowling and to assist her and accompany her to the hearing, which was set at a later date.

Q Was there anything in that order about arresting Mrs. Dowling or holding her in confinement, or anything of that kind?

A No, I see nothing to that effect in this order. It says "protective custody," to protect her from Mr. Heilman. It says that the Sheriff was directed to serve a copy of the order and the petition upon Mrs. Dowling and to be sure that she was brought to Court at the time fixed for the hearing, at which time the guardian ad litem was present, the physicians and the various witnesses.

Q The guardian ad litem had been appointed?

A That's right, on the date of January 4th Judge Holt entered an order appointing John W. Wright to be as guardian ad litem to represent Mrs. Dowling.

Q Now, that was on the same day, was it?

A Yes.

Q That is next on my list, Number twenty-seven, order appointing medical committee and guardian ad litem for Ina I. Dowling. Is that correct?

A Yes, that's correct.

Q Who were the doctors who were appointed?

A James L. Anderson and Bruce W. Alspach.

Q Now, Anderson was one of the doctors who previously had examined her. Is that correct?

A That's correct.

Q Who was the second one that was appointed?

A Bruce W. Alspach.

Q Is that the effect of the two orders? Have you stated the effect of the orders?

A I believe so.

Q Was a hearing set by the Court, by those orders?

A A hearing was set on all orders which were directed to be served on Mrs. Dowling and they were personally served by the Sheriff.

Q When was the hearing set for?

A At 1:45 o'clock p.m. on the date of Friday, January 7, 1955.

Q Very well. The day following the appointment of the

medical committee and a guardian ad litem, on January 5, 1955, I have a restraining order issued against Heilman. What was the effect of that order?

A Well, the curators had filed a separate motion for a restraining order, indicating, in essence, what I have reported to you before about the overbearing of this Mr. Heilman and asking that he be enjoined and restrained from using the power of attorney until further order of the Court.

Q Was that ever served on Mr. Heilman? Do you know?

A Yes, I believe it was.

Q Was there a separate order of June 6, 1955, to bring Heilman before the Court?

A Yes, there was, Judge. We recited to the Court - - the curators recited to Judge Holt - - that even though Heilman had in fact been served with this injunctive order not to use the power of attorney, that the curators found out, by virtue of a telegram received from Massachusetts, that a stockbroker named Emory had sold \$20,000 of a stock which belonged to Mrs. Dowling.

Q On Heilman's order?

A On Heilman's instructions to the stockbroker. The petition set forth that, with this power of attorney, it was our opinion that Mr. Heilman could further dispose of the balance of her \$300,000 estate, cash estate, and we recited that her assets might be further dissipated, and the Court entered an order on January 6th directing the Sheriff to take Mr. Heilman into custody and to produce him for examination and questioning on the following day, which had originally been set for the hearing.

Q What happened to Heilman?

A He had disappeared, Judge. We tried to find him. There was Sheriff Thompson and Deputy Sheriff Sam Everett and myself. We drove to various places where we thought we might find him, but we were never successful in actually catching up with him.

Q Did you find that he had fled the jurisdiction and left the city of Miami Beach?

A We believed that he had, Judge.

Q Did he later come to Court or not?

A He never showed up.

Q Then he never was brought before the Court?

A No sir, he was not.

Q The next item, January 7, 1955, a hearing upon the competence of Ina I. Dowling, some forty-two pages of testimony. Were you present on that occasion?

A Yes sir, Judge, I was.

Q Will you state who was present before the Court?

A The Court file reflects that there were present Mrs. Dowling - - -

Q Mrs. Dowling?

A Doctor Anderson, Doctor Alspach, Joseph Arnold, Susan Arnold and Sheriff Thompson, as well as Judge Prunty and myself.

Q Is Thompson the man who had, for a few days, remained in the Dowling home, pending this hearing?

A Yes, Judge; and Mr. Wright was present as guardian ad litem there representing Mrs. Dowling.

Q Whose testimony did the Court take?

A The Court first took the testimony of Mrs. Dowling. The first question I asked her was, "Do you remember giving the power of attorney to Mr. Heilman?" Answer, "No." Question, "Would you have given a power of attorney to Heilman for any purpose?" Answer, "No," and so on.

Q Did the doctors testify?

A The doctors testified at length.

Q Who were this Mr. and Mrs. Arnold that you mentioned?

A They were neighbors, down the street. They claimed that they knew the Dowlings for a period of time.

Q Did they also know Mr. Heilman?

A Yes. They felt that Heilman was cutting the Dowlings off from them and was not letting them talk to Mr. and Mrs. Dowling, and Mr. Arnold said that he had a heavy hand, referring to Mr. Heilman, and they recited about his drunkenness and running the car into the gate doors and appearing in a semi-naked condition.

Q Was that testimony before Judge Holt?

A Yes, this was before Judge Holt.

Q At the conclusion of that hearing I have "Order appointing curators for Ina I. Dowling," on the same day. Is that correct?

A That's correct, sir.

Q What is the crux of that order?

A The Court found, based on the motion, that the petition was well founded and it appointed Judge Prunty and myself as curators for Mrs. Dowling. It required us to each post bond in the amount of \$10,000, payable to the Governor, which was done. Upon the filing of the bonds, the curators were directed to marshal and collect all the assets of Mrs. Dowling, wherever they may be, and deposit the assets in banks in this County for their safekeeping and protection.

Q Are you still under that bond and have you been continuing to act as co-curator?

A Yes sir. The guardian ad litem was not relieved from responsibility, but was authorized, in conjunction with the curators, to assist the curators in marshaling those assets of Mrs. Dowling, and the Court retained jurisdiction to enter such other and further orders as were necessary.

Q What was done under that order with respect to collecting Mrs. Dowlings' assets?

A Mr. Wright and I immediately, and within a day, left for Massachusetts.

Q Was Mr. Wright likewise authorized by the Court to collaborate with the curators in the matter of collecting her assets?

A He was directed and ordered to. We went to Massachusetts to see if we could perhaps find Heilman there and, second, to apprise everyone with whom we thought Heilman might come in contact, to inform them that this power of attorney was an invalid one. We immediately contacted the Massachusetts conservator, and he came from his home to the hotel to meet with us on Sunday. We spoke by long distance in New Hampshire to Mr. Emory, the stockbroker who had sold the \$20,000 worth of stock. We made various and sundry calls to other persons in Massachusetts to inform them of what had happened in Florida and to find out whether other and further stock had been sold, or what had been done, to try to find out what had become of the assets of Mrs. Dowling, the ones which we had returned to Mr. Lane months earlier.

Q Well, what developed as a result of your trip up there?

A We found when we arrived in Boston on Sunday that Mr. Meserve, who was Mr. Dowling's conservator, had accepted employment from Mr. Emory, the stockbroker, to represent him in the Massachusetts Court and to initiate and file a new proceeding against Mrs. Dowling to have Mr. Emory appointed as Massachusetts conservator for Mrs. Dowling's assets.

Q And then what was done?

A There was a hearing that Monday morning in the Massachusetts Court, which I attended, after a discussion at length by long distance phone with Judge Prunty, who had remained in Miami.

Q What happened?

A The Court, I believe, reserved jurisdiction, but did in a short space thereafter enter an order appointing Mr. Emory as temporary conservator for Mrs. Dowling.

Q Were any assets gathered up, then, by you and Mr. Wright, and returned to Florida?

A I believe that there was returned to the Florida jurisdiction, \$4,200, from the Massachusetts jurisdiction to the Florida bank.

Q How was that money procured?

A I believe that Mr. Wright, having a savings passbook, presented his credentials and the check was made payable to, I believe, the estate of Mrs. Dowling. I haven't seen that check in two years and I don't know.

Q Was that returned to the Eleventh Circuit and reported to the Court?

A It was immediately returned. We had created a separate bank account for Mrs. Dowling and the money was immediately deposited to her credit in the bank account.

Q Did you then return to Miami?

A We did, two or three days hence.

Q The next I have is an order cancelling power of attorney, of January 10, 1955?

A Yes. We did prepare an order which, in effect, cancelled - - I think probably no further than within the jurisdiction of the Eleventh Circuit - - the power of attorney which I have referred to, the one which was signed by Mrs. Dowling for Mr. Heilman, and Judge Holt entered an order on the 10th day of January, 1955, which cancelled the power of attorney which had been given to Mr. Heilman.

Q Now, Item number thirty-three, January 10, 1955, order to produce a Mrs. Bickford. Will you state what was before the Court on that occasion and what developed?

A Well, this was a petition which was filed by Judge Prunty, in my absence.

Q You were still in Massachusetts?

A I was in Massachusetts, yes sir. Judge Prunty recited to the Court that Ann Bickford had been residing at Mrs. Dowling's house since the date of January 8th; that this Mrs. Bickford is familiar with certain of Mrs. Dowling's securities and business.

Q Well, that meant that for two days she had been there, did it not?

A Just two days, yes.

Q Go on.

A Judge Prunty represented to the Court, under Oath, that the said Mrs. Bickford was attempting to have Mrs. Dowling make some disposition of her securities and business interests. Judge Prunty represented that he did not know exactly what it was that Mrs. Bickford was doing.

Q Had Mrs. Dowling reported that to Judge Prunty, or do you know?

A I believe she did, sir.

Q Go ahead.

A And the prayer for relief was that Mrs. Dowling again be placed - - be permitted to remain in protective custody and that Mrs. Bickford be brought, instantler, before the Court to determine if she had been in contempt of the orders of the Circuit Court. Based on that affidavit filed by Judge Prunty, the Circuit Judge, Judge Holt, entered an order on the 10th day of January commanding the Sheriff to bring, instantler, Mrs. Bickford before the Court.

Q You next have an order to place Ina I. Dowling in protective custody?

A Yes.

Q Was Mr. Thompson or some other Deputy Sheriff sent

out to take care of the demands of the situation, pending the hearing before Judge Holt?

A The same gentleman, the same Deputy Sheriff, who had been there a week or two earlier was re-employed and sent back.

Q Was that Thompson?

A That was Thompson, yes.

Q The next item indicates that the following day the hearing was held before Judge Holt with respect to the Ann Bickford matter and her efforts to procure Mrs. Dowling to sign some kind of papers. Were you present at that hearing?

A Yes, Judge. I had just returned from Massachusetts.

Q That was on January 11, 1955?

A I believe that is correct, sir.

Q Will you state what happened at that hearing?

A Judge Prunty testified and Mr. Thompson testified that they had informed Mrs. Bickford, when she came to Florida, that Judge Prunty was one of two curators for Mrs. Dowling; that she was not legally competent to execute any papers or documents, and informing Mrs. Bickford that she was free to visit with Mrs. Dowling and live at her home if she desired, Mrs. Bickford having represented that she was a business acquaintance or friend of Mrs. Dowling, not a relative. Judge Prunty then testified that, despite this, Mrs. Bickford had taken Mrs. Dowling and had had her sign a petition, we believed, to the Massachusetts Court, asking the Massachusetts Court to appoint Mr. Emory as conservator for Mrs. Dowling's property in Massachusetts; so that when I appeared on the same date before the Massachusetts Court, unbeknownst to me Mr. Emory was having Mrs. Bickford have Mrs. Dowling sign a paper in favor of Mr. Emory, which paper requested that he, Mr. Emory, be appointed as Mrs. Dowling's conservator. Mrs. Bickford was represented by counsel—I believe Mr. Mershon—and she said that she did not know the contents of the papers which she had had Mrs. Dowling sign, but that she had merely been operating as an agent and had certain directions and instructions.

Q An agent of whom?

A I don't know that that was spelled out. I think she suggested that Mr. Emory had asked her to come.

Q Had Mr. Emory notified you of Mrs. Bickford's coming to Florida and the fact that she had procured such papers to be signed by Mrs. Dowling?

A No sir. I think, though, at the hearing before the Massachusetts Court Mr. Meserve, the Massachusetts conservator, said to the Massachusetts Judge that Mrs. Dowling had already or was shortly to sign a paper in favor of Mr. Emory, asking the Court that he be appointed for her. I pointed out to the Court that, in view of the experience which we had had with her concerning the power of attorney, that I did not feel that she knew what she was signing, and I represented to the Court that if another petition were put before Mrs. Dowling, naming some other person, she would undoubtedly sign that petition; and, sure enough, I came back to Miami and prepared a petition asking the Massachusetts Court to appoint, in the alternative another person as her conservator, or Judge Prunty and myself as conservators, or any other suitable Massachusetts resident, and, sure enough, Mrs. Dowling signed that one too, and so we sent that back to Boston and filed that before the Massachusetts Court.

Q At the final conclusion of the Bickford hearing did Mrs. Bickford desist and leave town, or what happened?

A I believe the Court found that she had been in contempt of the Court and the Court recited that she should be—

Q The Court found that she had committed perjury, did it not?

A I believe that that was the essence of the Court's finding.

Q She was represented by Mr. Luther Mershon?

A Yes, Judge, she was.

Q Is it correct that before the day was over Judge Holt released Mrs. Bickford to Mr. Mershon's custody and she then returned to Massachusetts?

A Mr. Mershon called Judge Prunty and myself and we told him that we had no objection to it, certainly, and that it was perfectly all right with us, and he went to see Judge Holt.

Q That was on the same day, was it?

A The same day.

Q The next item, January 27, 1955, is another fee order, which I think was gone into at some length on Friday, was it not?

A That is correct, sir.

Q The next item, on the same date, order rejecting bids on leasehold interest and requiring new bids and sale. Was that matter covered Friday?

A No sir.

Q What did the Court have before it? A petition for instructions with respect to bids having been received for leasehold interest?

A There was a great deal more. I would like to find it.

Q Go ahead.

A I have it now. There was filed before Judge Holt a petition for instructions, to which were attached approximately fifteen exhibits. The petition recites that Mr. Dowling is the owner of a lessee interest in a certain ninety-nine-year lease.

Q Will you state the crux of it, please?

A The petition recited that Mr. Dowling, as a tenant, had a ninety-nine-year lease on a piece of Lincoln Road property, for a term of ninety-nine years, which began in the year 1929; that his ground rent was \$9,000 per year and that he was required to pay all taxes, insurance, assessments, maintenance, upkeep and repairs. The curators recited that there were three tenants of Mr. Dowling under that long-term lease. One was David Allen, a retail business, which had a lease until the year—

Q Mr. Heller, without going into all those details, what was the essence of the petition?

A The essence of the petition was to point out to the Court, by virtue of a special accountant's report, that this piece of property—

Q Was that accountant's report before the Court?

A Yes, Judge, it was; that this piece of property was an unprofitable business venture, a losing proposition to Mr. Dowling, and that by virtue of a letter which we had received from the Massachusetts conservator, Mr. and Mrs. Dowling would now be living in Florida twelve months of the year. The background up to that date was that the Massachusetts conservator informed us that he would be unable to contribute to the living expenses of Mr. and Mrs. Dowling in - -

Q I believe we had that Friday?

A Right.

Q Go ahead. He suggested the liquidation of some of the Florida properties to provide money for the Dowlings. Is that it?

A The Massachusetts conservator, yes.

Q And you had a Certified Public Accountant appraise the prospective needs of Mr. and Mrs. Dowling, and he placed his conclusions in writing and filed them before the Court. Is that correct?

A Right.

Q Go ahead.

A Now, that report showed that it left only a reserve of \$300 for Mr. and Mrs. Dowling in the event of any emergencies. There was attached also various bids of various persons who were interested in buying it, buying the interest of Mr. Dowling.

Q Were there any appraisals?

A There was attached an appraisal report from one Adrian McCune and from one S. Z. Bennett.

Q What did they report?

A Mr. McCune reported that the interest of Mr. Dowling in that leasehold property was \$82,500.

Q That is, if it were offered for sale it should produce, on a fair market, \$82,500. Is that correct?

A Yes, Judge.

Q What did Mr. Bennett report?

A On the same matter, that it was worth \$100,000, less real estate brokerage commission and less a discount for cash if we could secure all cash.

Q All right. You had advertised for bids, had you?

A Yes, Judge, we had.

Q What happened?

A We had offers A, B, C, D and E, from various persons.

Q What was the top offer?

A The highest offer was \$95,000, which was a gross offer, from which a five percent brokerage commission had to be paid, and the lowest offer was \$72,100, so that the highest net offer to the estate was a \$90,500 offer.

Q \$90,500 net. Is that correct?

A Right.

Q What happened at the hearing, briefly?

A At the hearing, when there was for the first time made known the various bidders and their prices, one of the tenants, who had not originally bid, did then make a bid by filling in that typewritten sheet in hand, and Judge Holt rejected everybody's offer, instructing the curators to re-advertise the property in the newspapers, to accept sealed bids only, and that was done by the curators.

Q Upon the re-advertising of the property, did Judge Holt, in the order, fix an upset price?

A Yes sir, he did.

Q In what amount?

A That no offer shall be considered which shall be less than \$90,500.

Q In other words, Judge Holt took the top figure then before him and established that value as the upset minimum figure, and ordered that the property be re-advertised. Is that correct?

A Yes, Judge.

Q Did you re-advertise?

A We did, sir.

Q Were other bids brought in?

A Yes sir. There were just two bids received.

Q The amounts of them, please?

A I think—I know that the high bid was \$127,500, and I think the closest bid to that, the only other bid, was \$105,700 or \$107,500. I just don't find it right here in the file, right here in front of me. There was a difference of approximately \$22,000 between the two bids.

Q Very well. On the same day a hearing on bids with attorneys and brokers. Was testimony taken at that time?

SENATOR DAVIS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: I've been requested by two Members of the Senate to ask for a recess of about fifteen minutes. I make that motion.

(The motion was seconded from the floor).

CHIEF JUSTICE TERRELL: Without objection, that will be the order.

Whereupon, beginning at 3:25 o'clock p.m., the Senate stood in recess until 3:40 o'clock p.m.

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

MR. HUNT: Is Your Honor ready?

CHIEF JUSTICE TERRELL: Yes.

BY MR. HUNT:

Q Mr. Heller, the last question was addressed to the January 27, 1955, hearing on bids, with attorneys and brokers. Was that the hearing about which you have testified?

A Yes sir.

Q Did the Court, on February 7, 1955, enter an order confirming sale of leasehold?

A There was filed a petition for confirmation and ratification, to which was attached the advertisements, the court reporter's presence at the opening of sealed bids, the bids themselves, the photostatic copies of the checks. That amount was \$105,250—a copy of the closing statement, \$127,500, and various other documents and instruments which were entered into between the parties, which was confirmed and ratified and approved by Judge Holt.

Q That was by order filed February 7, 1955?

A I haven't yet found the order, but I—

Q Very well. Let it go. Next I have here, apparently out of line, an order releasing Bickford from custody?

A Yes, that order was entered releasing her the same day that she was taken into custody.

Q Very well. The next is "Order of February 10, 1955, authorizing long term lease." Will you please state to the Senate what the Court had before it?

A There was filed a petition for instructions, to which were attached various appraisal reports by Mr. McCune and Mr. Bennett, and certain other documents, which recited that Mr. Dowling owned a strip of land on the Lincoln Road, and that he had had an unsuccessful rental history with this; that the present lease existed by virtue of a cancellation agreement with a previous tenant.

Q What was on it? A store?

A These were business stores, storerooms. There was one primary tenant who had, underneath him, three other tenants. Mr. Dowling was then receiving \$20,000 per year rent, which was a gross figure, from which he had to pay taxes, insurance, upkeep, maintenance and repairs, so that Mr. Dowling's return on this property, before depreciation, was approximately \$10,000 a year. The real estate appraisers filed a lengthy report.

Q Who were they?

A Adrian McCune and S. Z. Bennett. Each of these gentlemen said that Mr. Dowling was not receiving the fair market value of rental return of his property. Mr. McCune said that, instead of \$10,000, he should be receiving 16-5 net. Mr. Bennett said that he should be receiving, I think, 16-8 net. The curators represented to the Court that if in fact they were successful in creating a new lease, that this would then be a guaranteed income to the estate. The appraisers said that if the property were to be sold, as distinguished from renting, Mr. McCune said it was worth \$288,500 and I think Mr. Bennett's was within a few thousand of that; so that these gentlemen felt that the property, for sale purposes, was worth approximately \$300,000, but that for rental purposes it should bring approximately 16-5 net per year.

Q Well, did you suggest selling it for the \$288,000 or did you suggest the arranging of a long-term lease to provide revenue?

A We did not suggest to the Court that the property be sold, but, rather, suggested to the Court that it would be

desirable to create a leasehold interest, a new leasehold interest, then have this guaranteed, almost annuity income coming in to a landlord on a Lincoln Road lease.

Q What was done?

A The Court entered its order finding that it was in the best interests of Mr. Dowling that the long-term lease be executed, and the Court said that all previous offers which had been tendered to the curators - - that they should be returned and that the property should be re-advertised again; that sealed bids should be submitted, at a place certain and at a time certain, set forth in the order; that all bids were required to be accompanied with a cashier's check equal to the advance rent or security offered, and that all offers must be net to the estate, so that taxes, insurance, utility deposits, maintenance, upkeep, would not be the responsibility of the landlord but, rather, the tenants; and the Court, in fact, set out in its order, on page three, the notice of curators' sale which it desired to have published in the newspaper. This was published in the Miami Herald for three consecutive days.

Q What was done?

A There was ultimately received a high bid of \$17,500 net for 97 years and \$14,000 for the first 2 years, the reason for that being that there was then a tenant in possession who had 2 years still to run on his lease, so that the person who was buying this leasehold would be receiving approximately \$10,000 a year rent from the other tenant, for which it would be paying to the estate for those two years \$14,000 per year. After that, after the termination of the two-year period, when the present tenant would be required to leave, the offerer offered to pay \$17,500 net each year. This bid was accompanied with the offer to pay in advance three years' rent as additional security, and the offer was to pay the fifth, the tenth and the thirteenth years in advance as additional security to Mr. Dowling.

Q Was that \$17,500 approximately a thousand dollars above the figures of Messrs. McCune and Bennett?

A That's right, sir.

Q Who was the successful bidder?

A The successful bidder was Kancros Corporation, a Florida corporation.

Q Now, on March 9, 1955, there were two orders, one confirming long-term lease, the second fees to curators. Will you give us the first order? That is to say, the essence of it, confirming the long-term lease.

A Well, this order, to which was attached the exhibits - - that is, the actual lease, which was negotiated between the lessee and the lessor, and the closing statement and so forth.

Q Was there a petition for confirmation?

A There was, Judge, a petition for confirmation and ratification.

Q Did it set forth what you had done?

A It set forth the newspaper advertisements, the court reporter who attended the sealed bids, the check of the various offerers and the offers, I should say, ranging from \$13,000 a year on up, and the actual assignment and the long-term lease which was negotiated, the closing statement, and so forth - - all of the various papers and documents which the Court would have to approve before the tenant got it.

Q Did the Court's order, then, confirm the lease which the curators proposed and did it authorize the closing of the transaction on that basis?

A The Court did, sir.

Q Did that order deal with any other subject?

A No, Judge.

Q Now, what was before the Court with reference to fees to curators on that same day?

A There was a lengthy petition reciting what had been done by the curators from the date of January 1, 1955, to the date of 9 March, 1955. There was a recitation concerning the sale of the lessee's interest in the 99 year lease, the one for

\$127,500; there was a recitation of all of the facts and matters which preceded and followed that negotiation; there was a recitation concerning the facts of the creation of the long-term lease; there was a recitation of the various consultations, the work which had been done, meeting with the appraisers with respect to buyers. It was pointed out to the Court that this sale and the creation of this lease were net matters to the estate; that there was no real estate brokerage paid and no discount for cash, no special attorneys employed for that purpose. It recited the negotiation or the creation of the 99-year lease. It recited the potential return on the execution of the long-term lease. It set forth a schedule, in the first column of which was what the curators believed would be returned to the estate by virtue of this new lease. There was, in the second column, the past rental experience of Mr. Dowling. There was in the third column that which Appraiser McCune said Mr. Dowling or his estate should receive, and there was in column four that which Appraiser Bennett said to the Court it should receive.

The curators pointed out that they had received, in advance rental, \$52,500 as security, and it recited the various deficits between what had been suggested by Appraiser McCune to the curators over the life of the lease - - that they were able to bring in \$99,000 more than McCune recommended as a reasonable rental and return and \$69,300 more than Appraiser Bennett suggested, and \$636,500 more than Mr. Dowling would have received, by virtue of his past rental experience and history.

They also recited other work which had been performed. They recited this financial enrichment of the estate, they petitioned for a reasonable fee.

Q Now, did the petition set forth any requested amount of compensation?

A No sir. Neither in this petition nor in any other was any specific request ever made to Judge Holt, by Mr. Prunty or by myself, for a particular fee. We never asked for any particular fee nor requested one.

Q Now, upon that petition for compensation, setting forth the matters which you have described, what order was entered by the Court?

A The Court did then find that, in fact, the curators had enriched the estate and had by virtue of the creation of this lease created something of value to the estate and to the Dowlings, and the Court recited other work which had been done, which would be presumptuous for me to speak of, and the Court ordered that the curators each receive the sum of \$15,000 for their services from the date of January 1st to the date of the entry of the order, which was 9 March, for all services rendered to Mr. Dowling's estate and for services which had been rendered in connection with these two business transactions which I have just testified to.

Q Very well. Now, under the schedule of fees of the Miami Beach Board of Realtors, what amount of brokerage would have been paid on this transaction, if brokerage had been paid?

A Well, on the \$127,000 the Miami Beach Board of Realtors, which happens to coincide with the Miami Board of Realtors, you would have paid a 5 per cent brokerage fee, which would have figured out to \$6,375 - - - and no brokerage fee was paid nor was there a discount for cash.

Now, on the long-term lease the method of computation for real estate brokerage is the average rental over a twelve and a half year period. It is an amortization at 8 per cent, on which is paid a 5 per cent brokerage commission, so that had a broker been employed or had a broker been the procuring agent in the creation of this long-term lease, the broker would have received a commission of \$10,830, just on the creation of the 99 year lease; so that the brokerage which was saved to the estate on these two transactions alone was \$17,205.

Q Now, what if the curators had employed attorneys to represent them in closing out that matter? What, under the schedule of recommended minimum fees of the Dade County Bar Association, would have been paid by the curators for professional services?

A I would estimate that the average normal fee for the

first service, which would be to represent the lessor in the assignment of a leasehold interest for \$127,500, that a normal, reasonable fee for that would have been approximately \$1500, as and for an attorney's fee.

With regard to the creation of the 99 year lease, I think that the average lawyer in Dade County would have charged \$3500 as attorney's fee, so that the two fees combined for these two transactions, I think for a fair day's pay, for a fair day's work, would have been approximately \$5,000 attorney's fees; so that the total saved to the estate on the brokerage and attorneys' fees was, in my opinion, \$22,205.

Q In other words, you and Judge Prunty, by performing all brokerage as well as attorneys' services, in addition to your responsibilities as curators, you did not pay out approximately \$22,000 which would have been justified under local practices. Is that correct?

A Yes sir. That is my opinion.

Q Well, the Court at that hearing then, did confirm the long-term lease and did enter that compensation order?

A Yes sir.

Q Your next item, on April 7, 1955, order to pay off personal loan of Jewell Alvin Dowling. What was that? What was before the Court?

A My files reflect that from December, 1954, demand was being made upon the curators by Kenneth Oca, who was representing Moseley's Detroit, Inc. - -

Q Representing who?

A Moseley's Detroit, Inc. He confronted us with this check, a photostatic copy of which is in the Court File, and represented that Mr. Dowling had borrowed from Moseley's Detroit, Inc., \$5,000 on the date of December 4, 1952, and the original of said check showed an endorsement by Mr. Dowling, in regular order, and the signature appears to be genuine.

Judge Prunty and I made contact with the Massachusetts conservator to find out whether or not there was any record of this and whether or not this possibly could be construed as a rental payment, not from Moseley's Detroit, Inc., who was never a tenant of Mr. Dowling, but from Moseley's Miami Beach, Inc. There was a confusing similarity of names. The report which we received back from Massachusetts - - and this was one of the things which I believe I checked personally, if my memory serves me, when I was there in January of 1955 - - was that there was no record of any rental delinquency so far as this tenant was concerned - - Moseley's Miami Beach. I might add that at that time that tenant was only paying \$4,000 per year rental, so that a check in the amount of \$5,000 would seem to have no rhyme or reason and did not seem to me to be in connection. In any event, we had no books or records.

Q What did you do?

A We petitioned the Court—we first demanded an affidavit from the personal man, Mr. Joseph Moseley, who claimed that he had made the loan. We tried unsuccessfully to discount the loan with their representative. We finally petitioned the Court and said that we had no defense to a law suit, and that a lawsuit was imminent. Judge Holt directed us to pay the \$5,000 to Mr. Moseley.

Q Did you do that?

A We did, sir.

Q The next item, May 5, 1955, order ratifying deposit receipt and sale. What was that - - and, on the same date, order appointing guardian ad litem?

A Judge, I don't find the order. It is probably in one of these three files, but I do find an interim report to the Court and petition for ratification dated May 5th.

Q Dealing with what? Will you explain that?

A Yes sir. This dealt with the residence of Mrs. Dowling, in which Mr. and Mrs. Dowling had been living since Thanksgiving of 1954, when they returned from Massachusetts. There were attached to the petition eight or ten glossy print

pictures of the property of Mr. and Mrs. Dowling prior to the time that the curators did any work for and on their behalf. I have copies of those pictures here.

Now, these pictures and the petition which was filed by Judge Prunty and myself recited the conditions under which the Dowlings were living. We represented to the Court - - and I have these photographs - - that the house in which Mr. and Mrs. Dowling were then living had not been painted since it was built, which was approximately 13 or 15 years. We reported that because of the fact that it had never been painted there were large cracks created throughout the house and that the plaster was hanging down, that there was no paint inside or outside; that this large wall which surrounded the property and which made it sort of look like a haunted house, was in the same state of lack of repair. We reported that there were rotten wooden windows around the house, that had just fallen apart from dry rot. We then reported that there was a depression and a sinking at the seawall. This house was on the bay. We reported to the Court that natural erosion of the tides and the waves against this seawall had caused the land to sink in there at the seawall, and we recited that that had - -

Q Had the seawall broken through under the waterline, or do you know?

A I believe it had, Judge. We recited also that on this big piece of property there was no living blade of grass, but it was just all weeds and sandspurs; that there was not a tree of any worth with the exception of one.

Q What was the request of the petition?

A The request of the petition was to ratify and approve the various repairs which we had made to the house and the effect of all these improvements, and that was the painting which we had done, the landscaping we had done, the truckloads of fill, the grading, the ripping up and hauling away of the old lawn, or what was left of it; the planting and the purchase of the Cadillac car and the fixing of the sprinkler system, the purchase of the furniture, the painting of the house inside and out.

At this point Senator Stenstrom appeared in the Senate Chamber and asked to be recorded as present.

Q Were all those matters, Mr. Heller, handled in good faith and to the best of the discretion and ability of the curators?

A They surely were, yes sir.

Q Now, taking up the matter, the item of painting, what was the amount of the painting bill for that house?

A The original estimated price of painting was \$3,600. However, it was agreed that the painter would put waterproofing on the exterior walls and on this high wall which went around the entire property. He found that after he tried that, that this paint would just not take to it, so it was necessary for him to put an oil paint or a rubber base paint - - I don't recall which - - for which we promised to pay him an additional \$535, so that the contract price of the painting was approximately \$4,100. I mentioned that "approximately" because there were bills submitted, and he also had the linoleum laid there in the foyer and in the kitchen and cement repair and some metal windows.

Q I believe you testified that some of the wooden windows were rotted away. Do you have photographs to show that, too?

A Yes sir, I do, right here.

Q Are they a part of the court record or part of your own files?

A Well, there were ten pictures that were filed in the Court File and I think that everything I have said is borne out here in the Court File. I don't see any after pictures here, but I think they were filed as exhibits.

Q Does this painting bill include the preparation of the exterior of the house, including the puttying of all windows and the resurfacing of the exterior portion preparatory to applying the paint?

A That's right.

Q Of the entire house?

A The entire house.

Q Inside and out?

A That's right. This is a two story house.

Q How big is it?

A There are about 22 or 23 rooms.

Q How many bathrooms?

A There are five bathrooms in this house.

Q How many coats of paint were included?

A There were two coats of the finest quality paint obtainable.

Q On the outside of the entire house?

A On the outside of the entire house and on the inside of each room and on the ceiling of each room.

Q Does that include all the woodwork on the interior of the house?

A This included all interior trim and woodwork, the foyer and vestibule. It had an outside veranda. They had a great deal of iron work. They had to wire brush it.

Q Did that four or five foot wall go around the entire property?

A Yes, Judge, it did. I guess it's about a five foot cement wall that goes all the way around the property. I had one picture here where they had put the first coat of paint on that wall, and I think you will see from that picture what it looked like before and what it looked like with the first coat; then, of course, it is apparent even from the picture that you would have to put a second coat on top of that.

Q Had you had any experience with this painter before?

A Yes, I knew this painter personally.

Q Where had you met him?

A I had known him for five years. I think I first met him in a veterans organization, and I knew the quality of his work. I had seen it in several lawyers' homes in Dade County, and when I bought my home in 1954 he painted my home and did such a nice job.

Q Where was your house?

A On Miami Beach. I have a bungalow house on Miami Beach. The lawyer across the street, he painted his house. When I moved into my office I had him do the painting and the papering there. He has done work for various hotels.

Q What various hotels?

A Well, he has worked in the lobby of the New Yorker hotel, on Miami Beach, the Sherry Frontenac hotel, on Miami Beach, the Promenade hotel, and several other hotels. He is a first-class workman and he is extremely honest and a very hard worker. I had great confidence in him. He came back and did a little extra stuff. For example, about four months ago, through no fault of his, but normal wear and tear, some of the caulking had come out around the windows, and so forth, and I called him, two years later, and asked him if he wouldn't go around and recaulk, and he did, he spent a half a day and never sent us a bill for it.

Q Now, let's get the landscaping bill. Did I understand you to say that that included some amount of fill that had to be hauled into the property, owing to erosion?

A That's right. It is my rough guess that there were between 35 and 50 truckloads of fill, good clean fill, which had to be brought into the property and packed down tight behind the seawall. First they had to put in a layer of rock.

Q Now, to prepare the front of the lot next to the seawall for the layer of rock which you have just mentioned, do you know whether or not a channel was dug adjoining the seawall and all the raw earth removed and, in turn, filled with rock, before the new dirt was put in, or were you there when it happened?

A Judge, I was not present when it was done, but I do know. I have these pictures of the depression before they started, and what it looks like today. It is now better than two years.

Q You knew they built it up and it was there - -

A They had to completely level it off at the sea wall.

Q Did they have the word "rock" in their report to you? Do you know they hauled in rock?

A Yes, Judge, I know that they did. Then, of course, their first job was the pulling up and hauling away of the weeds and sandspurs.

Q Did they bulldoze it to do that or how did they remove the weeds?

A No. I understood it was a small operation, by virtue of the fact that this wall was around it. I don't think they wanted to tear down the wall with any heavy equipment, so it was pretty much a big labor job, to rip up everything. Then these pictures show that they had to regrade the whole lot. In other words, it was not like starting with a fresh, clean lot. There was a depression there.

Q Did it also include a strip between the sidewalk and the street?

A Yes sir. That is approximately a 200 foot strip, and I think you can see that in some of these pictures. Here is a good picture of the seawall after it was fixed. I have one here of the sea wall before they did any work.

Q Who did you select to do that landscaping there?

A I called on the - -

Q Just a moment: and to furnish all the plants and trees there and to put the property into shape that some of these photographs show it to be after the work was completed? Who did that?

A The Arts Landscape Company.

Q Arts Landscape?

A Yes sir.

Q Are they located on Northeast 79th Street in Miami?

A Yes sir, and 10th Avenue. They are about three minutes from the Dowling house. I don't know if they are the largest, but they are one of the largest people who service that area. Their trucks are always on Bay Drive, where Mr. and Mrs. Dowling lived, and they had a very good reputation. They were written up very favorably in the newspapers at that time and they do very excellent work. They submitted to me, from a landscape architect that they had, first a sketch not in color and then a sketch in color, of what they proposed to furnish. It was not a matter of just dumping plants there. It was a matter of artistic arrangement, and I went over those very carefully with Mr. and Mrs. Dowling and they made changes - - one hedge was too high and one was too low and they didn't like one color or they liked another one. Both Mr. and Mrs. Dowling received a great deal of enjoyment from changing these plants, and so forth. That was approved, they ripped up the whole lawn and placed this top quality Bitter Blue sod, and it was planted solid and top dressed. Then, of course, these various plants and trees which they planted in accordance with the diagram that they submitted to us, all to the satisfaction of Mr. and Mrs. Dowling. Then I should say that they stood behind their work, because there was some grass which did not catch on too good, and they came back within a few months and replaced that. There was one tree that had fallen because we had a little storm there, and they replaced that. They were thoroughly and completely reliable and trustworthy. I had the utmost confidence in them and they did a beautiful job.

Q Now, with respect to the new addition, do I understand, Mr. Heller, that the overall property, including the landscaping, was first put in condition, and then it was determined to erect a new small wing for Mr. Dowling's comfort? Is that correct?

A That's right. After the painting had been finished and the landscaping had been finished and the furniture had been

moved in, the doctor said to us that it was perilous for Mr. Dowling to climb or have himself half dragged up this staircase, this terrazzo stairway, up to the second floor where his bedroom was.

Q Was it one of these spiraling affairs?

A That's right, a spiral up there. He was a very heavy man - - he weighed more than 200 pounds - - and he had had three strokes, one in '33 and one in '36 and one in forty something. He was paralyzed on one side. Mr. and Mrs. Beynon, who had been working for them, had to drag him up those steps, one step at a time, in any event, the doctor who was then in regular attendance - - we had a doctor who would come in whenever they needed help, or he would come in on regular visitations - - the doctor said there was a chance that Mr. Dowling might fall, and he insisted that Mr. Dowling sleep on the ground level of that house. Well, there was a sun porch on that level there, which you can see in these pictures, but it was not big enough. There was very little protection from the elements, and there was also a servants' quarters there, with very small rooms, 8 by 11 or something like that. Mr. Dowling would just not consent to sleep in those.

Q Was it discussed with Mr. Dowling?

A Yes, it was Judge, because he was a hard man to keep happy. He had his own mind in many things and he would scream and shout and yell at everyone. We tried the thought of putting an elevator in. We called the Otis Elevator people and they proposed to rip out a closet and part of a walkway on the main floor, and then we could shoot up to the second floor. It would destroy that space, but it would create an elevator; but Mr. Dowling would have none of it. He kept screaming that he was going to get stuck in the elevator, that he would die in the elevator, that we were building a coffin, and he didn't want it, didn't want any part of it, and all the assurance that it was safe and sane, with an alarm bell, did not assuage him. Finally, we knew that we had to do something, and we then employed the architect to draw us the plans for this specially designed room, without steps, which we did build for Mr. Dowling.

Q Do you have a photograph showing any of those pictures?

A Yes, I have all those.

Q Of that addition?

A Yes sir. It is not an exterior picture, it is an interior picture.

Q (After examining photograph) Is the photograph you have handed me an interior picture of the new addition placed on the property for Mr. Dowling?

A That's right. I don't think all the furnishings had been finished. I don't see the drapes there, but that was it.

Q Do you also have the before and after pictures showing the exterior of the property?

A Yes, I have those and I have the after picture showing the furniture that was put in the house. I have a picture of Mrs. Dowling taken afterwards.

Q How many do you have there altogether? Are any of those duplicates?

A Thirty-nine pictures, and a separate picture of Mrs. Dowling.

Q Are there any duplicates?

A One or two might be duplicates.

MR. HUNT: Your Honor, we would like to have those marked for identification for the Respondent, as one exhibit.

MR. MUSSELMAN: Let's see those.

(The pictures were examined by Mr. Musselman.)

(Whereupon said pictures were marked for identification as Respondent's Exhibit 1.)

BY MR. HUNT:

Q Let's discuss that furniture. From whom did you purchase the new furniture?

A From Mr. Hart.

Q Was the house furnished throughout or just the additional wing?

A The furniture which was supplied by Mr. Hart was practically the entire house, with the exception of the servants' quarters and two guest bedrooms on the second level. The entire house, including the wing, was refurnished by Mr. Hart.

Q Now, who is Mr. Hart?

A Mr. Hart is a well known business man, furniture man, in the greater Miami area. He has been there about 25 years, I believe, and he has a good reputation. He knows a great deal about estates and knows a great deal about furniture and rugs and antiques, and so forth.

Q Is he the owner of Hart's Galleries?

A That's right.

Q Had you previously had a dealing with him in the Stengel case?

A Yes sir, I had.

Q What happened in that matter?

A Well, in the Stengel estate you will recall that, as curator, I received this house in south Miami, and the furniture which was in that house. I took an inventory of that furniture with one of the heirs, two deputy sheriffs and my secretary, which was filed in the Court File. I found that the people who owned the furniture had valued it with the county at \$3,100. I found that they had insured it against fire, theft, windstorm and so forth, for \$5,000.

Q What did you do about selling the furniture?

A I filed a petition before the Court for instructions. I advertised the property in the greater Miami area.

Q This is the Stengel furniture?

A This is the Stengel furniture - - by calling the largest second hand or used furniture purchasers. Two of them, who are well known Lincoln Road companies, though I will not mention their names, but they are in the Court File, told me that they just didn't have the cash, in August, to buy an estate of any magnitude, so they were ruled out. There was another company, called Kred's, which was very well known. This lady and her son went with me to the Stengel house. She surveyed the furniture, expressed her disappointment that there was no single piece of any great or substantial value, and offered me \$2,800 for the furniture. The next day she called and I told her that I had other bids, although I frankly had not, and she said, "Well, I'll offer you \$3,000 but I will offer this: if you will leave the furniture with me for six months, on consignment, I will guarantee you \$3500." In the meantime I found Mr. Hart. I took him out and told him that there were other bidders bidding against him. He took a quick walk through the house and immediately offered me \$4,000. I then made him wait a day or so and called him and bluffed him and said, "I've got someone that tops your offer." He says, "Well, the highest I can go is \$4500," so he came up with \$1500 cash more than the nearest bidder, which was Kred's.

Now, this Stengel case, I would like you to know, was as widely publicized - -

Q Well, we won't get into that.

A Well, there was a big story in the papers about that.

Q I just wanted to trace Mr. Hart back to the Stengel case, as the prosecution did. Now we will return to the Dowling case. State to the Senate how the furniture situation was handled with respect to the Dowling matter?

A Mr. Hart gave us a guarantee that he would supply a certain amount of furniture at a price of \$10,000, and he described in writing the amount of furniture and the various prices per piece of furniture which would make up the \$10,000.

Q Was that after he had surveyed the house and gone through it?

A He first, as in the case of the painter, first went to meet Mr. and Mrs. Dowling and become acquainted with them and see what they liked, whether they liked period furniture or modern furniture. Then Mr. Hart - - we made him put on the contract that this had to be to the satisfaction of the curators. Now, we did that for our protection. We wanted him to put in a great deal of furniture, and then if it was not satisfactory to Mr. and Mrs. Dowling or the curators, we felt that then we would be under no legal obligation to pay him anything or to keep anything, so we made him recite on the written contract, which was filed in the Court File, that it had to be to our complete satisfaction.

Well, what he did was move in this big truckload of furniture, and it was no sooner in than Mrs. Dowling got me on the phone and said, "I don't like it. I'm not such an old fashioned lady. This is old fashioned stuff. I want modern stuff." So I called Mr. Hart and he came back out with a moving van and moved out the whole household of stuff that he had brought in.

Q Then what happened?

A Then he went with Mrs. Dowling and with Mrs. Beynon, who had been with her, and they went around to various wholesale houses and manufacturers' outlets, and Mrs. Dowling picked out, piece by piece, what she liked, and then we received the same amount of value of furniture. In other words, she didn't like the rosewood furniture which had first been supplied and which I saw in the house. He then showed her - - he then bought for her another sofa which she liked, of a different period and a different style and a different color and a different fabric. That was one of her continual problems - - the substitution problem. Mr. Hart was substituting things until the time Mr. Dowling died several months later. I remember he was running all over town, he complained to me, about a dog basket, and he was getting these things for her.

Then there was additional furniture which he supplied. There were dishes which he supplied, there were chandeliers, there were antiques, there were additional pictures, television sets and so forth - - an additional \$6,000. These, too, were done in the same manner, and an inventory of all of those was filed in the County Judge's Court, of all the furniture in the house, and Mr. and Mrs. Dowling by that time were quite pleased with how their house looked and were very proud of it, and Mr. Dowling kept calling it his showplace. One of the problems was the fact that he was very overbearing and she was afraid of him. He would like a picture and she wouldn't, and so it would stay a couple of days and there would be a substitution, so there was constant turmoil and changing and changing.

Q By the way, was Mr. Dowling a church-going man, or do you know?

A I know he was not a church-going man.

Q Was Mrs. Dowling a church-going woman?

A She was a very devout person. She believed in her church, she attended it regularly and faithfully. She tried to be charitable to her church. She believed in it and she did a great deal of reading.

Q And Mr. Dowling didn't attend. Is that correct?

A No, he didn't want to go to church.

Q Now, is it your judgment and did you exercise your best discretion in an effort to see that your wards obtained value received for the money spent through Mr. Hart for the furniture, or did you just pay him what he wanted?

A Yes sir, we had this contract in advance and we paid him for the furniture and the dishes and so forth which we received and which were first approved by Mrs. Dowling in terms of "I like this" or "This pleases me, this is what I want." We were satisfied with Mr. Hart's general reputation in the community and with his experience in these matters, that we were getting a fair shake for our money.

Q And Mr. and Mrs. Dowling were well satisfied. Is that correct?

A Yes sir, they were.

Q Did you in any way, directly or indirectly, receive any return, reward or consideration of any kind as a result of the expenditure of your wards' monies for these improvements, or any of them?

A No sir.

Q Now then, you laid the petition before Judge Holt to ratify those improvements and, as I understand, the petition and the order of ratification including all the improvements. Is that correct?

A Yes, Judge, everything.

Q Including furniture purchased?

A Yes sir.

Q Landscaping and everything?

A Yes, Judge; including the purchase of the car, the trade-in of the old car, and every other thing which has been done in and about the property.

Q Now, I note that Judge Holt entered an order denying a lien on the fee. What was that - - on the same date?

A Mr. and Mrs. Dowling were living in Mrs. Dowling's house. Mr. Dowling's money, of necessity, had to be used to improve Mrs. Dowling's house.

Q Just a moment. Will you tell us what the Court had before it with respect to that matter?

A The Court had appointed a guardian ad litem to represent Mrs. Dowling with regard to this petition for ratification and confirmation of the actual expenditure of the money.

Q Then when you filed your petition for confirmation of these expenditures the Court did appoint a guardian ad litem again for Mrs. Dowling?

A The Court did, and it inquired into the subject matter of whether or not Mrs. Dowling's estate could be surcharged.

Q Let's get the guardian ad litem. Did the Court appoint a guardian ad litem?

A Yes, it did.

Q To represent her at the hearing?

A Yes sir.

Q Who was he?

A John W. Wright.

Q Did he attend the hearing?

A Yes sir.

Q Did he protest your petition?

A Yes sir.

Q To surcharge that property with the cost of the improvements?

A Yes sir, successfully.

Q And the Court ruled with Mr. Wright and refused to give the curators a judgment against Mrs. Dowling's property for the sums expended in the improvement program? Is that correct?

A Yes sir.

Q Anything else?

A No sir.

Q Now, on June 9, 1955, Judge Holt entered an order discharging curators for Jewell Alvin Dowling. Will you explain what that was?

A There was filed before Judge Holt a petition for discharge and for ratification and approval, to which were attached certain exhibits.

Q Was that upon the occasion or shortly after the occasion of Mr. Dowling's death?

A Yes sir, he passed away in May, 1955. This was a petition to have a final accounting prepared by the certified public accountant. This was a petition to have that accounting approved by the Court and to authorize and ratify the payment of certain bills which were outstanding, and the Court authorized those and allowed a fee to Judge Prunty and myself, a final reimbursement for costs, expenses and fees, \$4,762.38 each, and we were then instructed to turn over all assets which were in our dominion and control to the County Judge's Court in and for Dade County, Florida.

Q Is that all of that order?

A Yes sir, that's the substance of it.

Q The next order is June 9, an order discharging doctor, and another one on June 9, an order to pay bills. What were they?

A There was a physician who was regularly attending Mrs. Dowling. The curators were not entirely pleased with his services, with the services which were being rendered, and we petitioned the Court for authority to discontinue those services and to employ another or a substitute physician. The Court entered its order permitting that to be done.

The next order was to pay for certain nurses. I believe these were for the last illness, and we had to pay St. Francis Hospital and pay for the ambulance service.

Q Then on the 8th there was an order changing doctors. Were there two orders respecting doctors?

A Yes sir. There had also been filed by the curators, though I do not now find the petition, a motion to have a temporary guardian of the person for Mrs. Dowling, and the Court had appointed Dr. Anderson and Dr. Alspach to examine Mrs. Dowling and report back to the Court in that regard.

Q The next item is an order of June 24, 1955 - - I beg your pardon - - July 21, 1955, order directing curators re will contest. Will you explain that briefly to the Senate?

A A short one-page petition was filed reciting that Mr. Dowling had passed away, that the curators had been appointed by the County Judge - - the curators of the estate of Mr. Dowling, that is - - and the will had been offered for probate; that said will creates a trust for life for Mrs. Dowling but does not leave the residue of the estate to her, the remainder of the estate; and the Court, after hearing, instructed the curators to file a contest of the will or to take such further action as was necessary to protect Ina Dowling with regard to the will.

Q What did you do under that order?

A We filed in the County Judge's Court a petition for revocation of probate.

Q What principal ground did you urge? The incapacity of the deceased to make a will?

A The primary ground was his incapacity, as witnessed by certain overt things which appeared to me from the face of the will.

Q Have you testified that he had been examined by physicians some days prior to the execution of that will?

A That is correct, Judge, yes.

Q And those physicians appeared before Judge Holt at a later date and testified that he was incompetent?

A That is correct, Judge.

Q Is that the transcript of testimony on the desk that I see here?

A I hope it is.

Q Underneath that file?

A Yes, Judge, it is.

Q Does that represent the testimony taken before the County Judge?

A Yes.

Q On that will contest?

A Yes sir. I recognize those. There were, in addition, some depositions. I took depositions in Boston in October and Judge Prunty took depositions, I think, in November.

Q Where?

A In the State of Massachusetts, and these were introduced in evidence before Judge Dowling at the time of the will contest.

Q That is in addition to the testimony taken before Judge Dowling?

A Yes sir, it is.

Q How many pages are in that transcript of testimony you are holding there?

A Approximately 255 pages.

Q Will you note the appearances for the record?

A Judge Prunty and myself on behalf of Mrs. Dowling; Mr. Marion E. Sibley, of Sibley and Davis, for Joseph Moseley; Shutts, Bowen, Simmons, Prevatt and Julian, on behalf of Sidney Price, A. George Gilman and Lawrence Marston; Mr. Graham Miller on behalf of the Salvation Army; Mr. Leonard Blaser on behalf of Harry Cunningham and Ida Nichols.

Q What is the status of that case now?

A That is the matter which is on appeal to the Circuit Court.

Q What disposition was made of the case by the County Judge?

A The County Judge ruled that Mr. Dowling was competent and did in fact know what he was doing when he made his will.

Q Is that the will that you pointed out Friday, where he misnamed his wife's first name?

A That's right; and in refreshing my recollection also I remember that he named two executors to that will, Moseley and Mercer, and Mr. Mercer testified in court - - "Mr. Mercer, would you state your name, please, your address," and so forth. "Did you know Jewell Alvin Dowling?" "No sir." "Did you ever meet him or speak with him?" "No sir."

So that one of the two executors was a man that he never met or spoke to in his life.

Q Very well. So did you and Judge Prunty appeal the adverse decision of the County Judge to the Circuit Court?

A We immediately filed our notice of appeal.

Q And did that case fall in the division of a circuit judge other than Judge Holt?

A I believe so, yes sir.

Q And did Judge Holt enter a notation on the file because it was a case involving issues and parties with which he had familiarity?

A Judge Holt made a notation - -

Q Just a moment. That it be transferred to Division A of the court?

A Yes sir, Judge Holt made the notation that it was a related case to 167361-A.

Q Which is the curatorship proceeding?

A Which is this file, and it was assigned from Division C, I think, to Division A.

Q I note an order on June 29, 1955, "Return check to Sibley and Davis." Can you state briefly what that was?

A That was the \$10,000 check which Sibley and Davis, as attorneys for Moseley, had tendered at the time they filled in that 91-5 offer on the purchase of the - -

Q When all bids were rejected?

A Right.

Q That was returned to them?

A Yes sir, the check was.

Q Now, an order of July 29, 1955, to appraise Mrs. Dowling's house. What was that for?

A A petition for instruction was filed by the curators, in substance reciting that now that Mr. Dowling had died and was buried in Miami, that Mrs. Dowling is very unhappy in her home and that it seems worse for her on account of the memory of her husband. We recited that the house was so very big for her to live in alone and that she had expressed, and I think her spiritual adviser had discussed it with me - - the possibility of her moving into smaller quarters; so we petitioned the Court to get appraisals on the property, and the Court directed that we should get appraisals and appointed McCune and Bennett as appraisers and authorized us to advertise the sale but to not sell it at any price unless it was greater than the highest of the two appraisals. The house has never been sold. No one has ever been willing to offer what the appraisers say it is worth.

Q Mr. Heller, recurring to the building of the addition on the Dowling home: at that time did you make any effort to ascertain what Mr. Dowling's normal life expectancy was?

A Yes sir. We recited it in our petition that, at age 76, by the standard ordinary mortality tables, that he should have lived six and a half more years, and we fully hoped and prayed that he would live at least six and a half more years, so that he could enjoy these improvements that we were making to his home.

MR. HUNT: I believe that is all at this time, Your Honor.

THE WITNESS: I had one other picture, Judge, that I forgot to give you.

MR. HUNT (To Mr. Musselman): Can this go with the group?

MR. MUSSELMAN: Yes.

(Whereupon said last named photograph was placed with and incorporated in the group of photographs marked for identification as Respondent's Exhibit 1.)

CHIEF JUSTICE TERRELL: I have several questions that have been sent up by Senators. If there is no objection, I will take them up right now, before you cross him.

The first one is by Senator Connor:

"What were the dimensions of the Dowling home, including the addition?"

Mr. Heller, what were the dimensions of the Dowling home, including the addition?

THE WITNESS: I have the exact information if I can refer to the appraisal report. Do the House Managers - - do you have the report which was filed as an exhibit?

MR. MUSSELMAN: It is not here.

THE WITNESS: There were two appraisal reports, one by Mr. McCune and one by Mr. Bennett. The Court file shows that they were filed. I could tell exactly the square footage of the house and the grounds, and so forth.

MR. MUSSELMAN: You were looking at the plans Friday, I believe.

THE WITNESS: Well, the question asked by the Senator was the dimensions of the entire house, and the plans only show this wing.

MR. MUSSELMAN: Well, I can't help you if you can't find it in the File.

CHIEF JUSTICE TERRELL: Suppose we pass that question for the present and return to it in the morning the first thing. You can look it up in the meantime.

The second question:

"Could not the house have been built originally for the amount of the repairs and landscaping?"

THE WITNESS: I don't claim to be an expert on the subject of construction in Dade County and Miami Beach, but I think I know this, Sir: It costs more money to change something which you have than it does to start afresh. If there had been no lawn at all you could have put in a lawn for considerably less money. If there had been no existing house you could have built a wing for a great deal less money.

I had occasion to discuss this with an architect, and he said it was much more expensive to know where and how to cut into an existing house, to know what lines you can cross and what you cannot, what line you can go over and what you can go under, whereas when you start afresh you have no problem of what existed theretofore, you can go at it clean. I think that is probably true - - that it costs more to build something, costs more to rip up and haul away a lawn in wheelbarrows than if you had no lawn to start with.

Then, of course, the truckloads of fill, and so forth - - so I think the answer to the question is that I don't think you could have. That is my opinion - - not in Miami Beach. I should say this: it costs more to build or repair a house on Miami Beach than it does in the City of Hialeah or than it does in other places. Workmen charge more per hour. You have tougher laws. You must begin later in the morning and you must conclude earlier in the evening, because of your noise ordinance, and it does cost more money to build or construct or rebuild in expensive areas.

There are houses in this neighborhood further down the street of a hundred or a hundred and fifty thousand dollars in value, and you just can't put a shack alongside of those.

We were anxious that the Dowlings should be happy, and they were happy, and they lived better, in my opinion, under this curatorship than they had anytime before that. They gained weight and they looked wonderful and they felt wonderful, and they were enjoying their properties and they were clean and they had clothing and were well fed.

CHIEF JUSTICE TERRELL: The next question, "Is it normal procedure to appoint the same curator to handle the business of two in the same family who have separate ownerships of property?"

THE WITNESS: I believe that it is normal and natural. I believe that it is the wise thing to do, for the reason that to bring in complete strangers, you've got to educate them from the word go. You've got to go through a thousand pages of a court file so that they will know what has transpired before, and I think it is customary in court appointments that the court will, on parent and subsidiary companies, for example, usually appoint the same receiver or trustee to deal with more of the assets, than to bring in a complete stranger.

I should mention also this interesting point: in the Massachusetts courts Mr. Meserve, who is a very well known and distinguished lawyer in Boston, served as conservator for Mr. Dowling. He also is the attorney for the conservator for Mrs. Dowling; so there you have almost an identical situation, and I am sure that the Massachusetts courts have looked upon that with favor rather than disfavor.

CHIEF JUSTICE TERRELL: Senator Stratton offers this question:

"Have you ever received a curatorship from any other judge in Dade County, and, if so, who was the judge?"

THE WITNESS: I have never served as a curator other than in the Stengel and Dowling cases. I have, by appointment of almost every other circuit judge in Dade County, many times been appointed as guardian ad litem and as Special Master in Chancery. For example, Judge Milledge had three times appointed me as guardian ad litem to serve in cases in which the Lane-Muir firm was concerned; so that when Judge Holt appointed me as guardian ad litem for Mr. Dowling this was the fourth time that I had served that law firm, and they were familiar to me and I hope that my services were familiar to them. I would say that I have never asked any circuit judge, including Judge Holt, to be appointed as anything. I have never sought for nor asked for an appointment or favor of any shape, matter or form.

CHIEF JUSTICE TERRELL: The next question:

"How many curatorships have you handled before going to law school and how many after law school?"

THE WITNESS: I never was a curator before going to law school, but I think that I can mention to you that I had experience from a business background. I have a bachelor's degree in business administration. I worked my way through college for three and a half years by working as, first, an order clerk, then as assistant to the credit manager, then as assistant to the sales manager, then as assistant to the production manager, for the Cason Hardware Manufacturing Company. They are one of the world's largest manufacturers of heavy duty refrigerator hardware. I attended college in the evenings, because it was necessary for me to do so.

Between my first and second years of law school I accepted employment as purchasing agent for the Royal Lace Paper Manufacturing Company. They are the people who make these paper dollies and shelf paper and lining paper. They are rated in Dun & Bradstreet as a multi-million dollar company. I served two months during my summer vacation as a purchasing agent for that company and handled in that capacity several hundred thousand dollars worth of purchases and purchase orders. I have a bachelor's degree, as I mentioned, and a law degree, and approximately 50 more hours at various universities towards my master's degree, which I never finished.

CHIEF JUSTICE TERRELL: Senator Eaton offers this question:

"Is a member of the firm of Love, Lane, Wakefield & Muir summoned to appear as a witness in this case?"

Just answer the question, Mr. Heller, without quite so much explanation.

THE WITNESS: I have no knowledge.

SENATOR EATON: The question was supposed to have been directed to the Managers.

CHIEF JUSTICE TERRELL: I didn't understand.

SENATOR EATON: The question was directed to the Managers.

CHIEF JUSTICE TERRELL: Yes, that's correct. That question is addressed to the Managers.

"Is a member of the firm of Lane, Love, Wakefield & Muir subpoenaed to appear as a witness in this case?"

MR. MUSSELMAN: I believe Mr. Lane was subpoenaed. Mr. Lane is subpoenaed, but I believe that he is ill, if I am not mistaken.

MR. HUNT: I can answer the question, I believe, Your Honor. I think Mr. Lane was found to be on the American Bar Junket in Europe, and when we were advised of that, the defendant himself subpoenaed Mr. Lane's partner, Mr. Muir, so I think he will be available.

CHIEF JUSTICE TERRELL: The second question addressed to the Managers:

"Was the Dowling estate matter presented to the House Committee during their hearings?"

MR. MUSSELMAN: I believe the record of the hearings will show that it was presented by Judge Giblin when he appeared before the Committee and testified.

MR. HUNT: Your Honor please, the records of the Investigating Committee of the House of Representatives will show that, upon advice of the Attorney General's office, the Investigating Committee did not include the matter of fee awards in the investigation in any way. It will further show that the only reason Judge Giblin testified about it when he took the stand was because he insisted upon it.

MR. MUSSELMAN: I believe, in view of the statement of counsel, that I should make a statement, Your Honor.

CHIEF JUSTICE TERRELL: Go ahead.

MR. MUSSELMAN: I think the record will show that at

the commencement of the appointment of the Investigating Committee certain areas were assigned at that time, where we could commence to investigate this matter. It was decided at that time that possibly we would not go into the Dowling or Stengel matters whatsoever. As the hearings progressed, Judge Giblin was brought before us as a witness and testified as to both the Stengel and the Dowling matters, and filed with us written reports that he had drafted himself and had printed up, and they became part of the record, and the Court Files were presented, and I myself studied them over a weekend prior to the Committee's report being made.

MR. HUNT: Your Honor please, I hold in my hand a letter signed by the Chairman of the Committee outlining the seven areas of the investigation, a joint letter to counsel for each side, and there is nothing in here that has to do with the amount of awards or compensation in any wise, and I might point out that Judge Giblin was neither a party nor a witness in either the Stengel or the Dowling cases, nor following his testimony was a single witness brought before the Committee pertaining to either one of those cases.

MR. MUSSELMAN: However, may it please the Court, those matters were before the Committee. That was the commencement in the areas that we thought we would commence on.

CHIEF JUSTICE TERRELL: The next question, by Senator Dickinson:

"What evidence appears in the record specifically as to the disposition of the bonds and stocks?"

That is addressed to Mr. Heller.

THE WITNESS: There is a motion filed before the Court; there is a stenographic record of a hearing before Judge Holt; there is an order entered by Judge Holt directing the curators to turn the securities over to Mr. Lane, as attorney for Mrs. Dowling, and I have and can produce, if it is desired, a three or four page receipt which my secretary prepared and which Mr. Lane signed when I turned the securities, savings bank books and other valuable assets over to Mr. Lane.

CHIEF JUSTICE TERRELL: Who sent the assets to Massachusetts? That is the second aspect of Senator Dickinson's question.

THE WITNESS: I think that Mr. Lane represented unto Judge Holt - -

CHIEF JUSTICE TERRELL: Who holds the receipt for them?

THE WITNESS: That would be Mr. Lane's receipt, if the Senator please. I would imagine he has a receipt, or his corresponding counsel in Boston that was the firm of Goodwin, Proctor & Forbes.

CHIEF JUSTICE TERRELL: Where are the assets at present?

THE WITNESS: In the Commonwealth of Massachusetts.

CHIEF JUSTICE TERRELL: The last question, by Senator Johns:

"Do lawyers in Miami and Dade County demand higher fees than lawyers in north and west Florida and second, haven't some of the highest judgments been awarded against insurance companies here that have ever been known in the history of Florida, have been awarded in Dade County?"

THE WITNESS: There have been judgments in negligence cases of several hundred thousand dollars in Dade County, which has made Dade County prominent and some of its lawyers nationally prominent as experts in the field of negligence. A normal retainer in such cases can vary to the attorney between thirty and fifty per cent of the amount recovered, so that attorneys in negligence cases can earn fifty, a hundred or a hundred and fifty thousand dollars in matters such as that.

I don't know that lawyers in Dade County receive a higher fee than in any other counties. We do have a schedule of minimum fees which are published by the Dade County Bar Association and which all ethical lawyers abide by.

However, many of us feel, by choice and sometimes by result, that we do work for nothing, charity work. In certain instances we receive higher compensation than the minimum Bar fees set by the Dade County Bar Association; but I think that these fees are set in relation to the great expense which I think lawyers in Dade County probably have. The price that we pay per square foot - - I am paying more than five dollars per square foot for office rent, and my secretary commands a very high salary, in my opinion. I think it probably costs me a great deal more to practice law in the City of Miami than it might - - and I have conferred with friends and colleagues elsewhere in the State of Florida, and their expenses are nowhere near mine, and they can earn a great deal less money per year and take home a great deal more money per year, by virtue of the fact that their expenses are much less than those of the lawyers who practice in Miami.

CHIEF JUSTICE TERRELL: If I have overlooked any Senator's question I hope you will call my attention to it after we adjourn.

SENATOR DAVIS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: A point of order. I move that we do now adjourn.

CHIEF JUSTICE TERRELL: The point of order is well taken.

Whereupon, the Senate, sitting as a Court of Impeachment, adjourned at 5:07 o'clock P. M., until 9:30 o'clock A. M., Tuesday, July 30, 1957.