



Case Files, General Index, and Briefs
of the Supreme Court and the Court
of Appeals

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January 13, 1965

10:30 o'clock A.M.

In Chambers

THE COURT: As stated before, the purpose of this hearing is to hear testimony concerning the location, nature and extent of the trust assets, constituting the trust created by Defendant Palmer Peterson, and to hear evidence relating to the matter of attorneys' fees to be allowed to the plaintiff.

In connection with the trust, the evidence at the trial disclosed that approximately \$10,000 was transferred to the trustee, and there was received in evidence a record book kept by Defendant Paul Halverson.

There was also documentary evidence introduced at the trial setting forth the securities that were transferred to the trustee by Dr. Peterson.

At a previous hearing evidence came to light that subsequent to my amended findings of December 4, Dr. Peterson obtained possession of those trust assets, and we will hear testimony regarding that.

So that possibly as an aid in getting to the basic facts, you might refer to the record book that is an exhibit, and to the list of securities.

I am interested in the present market value of those securities.

1 MR. MORRIS: We have Mr. Haverstock here who
2 handled the trust, and he will testify to that, Your
3 Honor. I asked him to bring current listings of stocks
4 and so forth.

5 THE COURT: I understand that Mr. Paul Fisch,
6 an attorney of this City, is representing Paul Halverson;
7 is that correct?

8 MR. FISCH: That is correct.

9 MR. DYGERT: I believe Mr. Fisch has a list of
10 assets turned over, Your Honor.

11 THE COURT: That can come out through the
12 testimony.

13 MR. DALY: I wonder if I might make a short
14 statement for the record to protect the interest of my
15 client?

16 THE COURT: Surely.

17 MR. DALY: This Court entered its order on
18 January 7, 1965, stating that it would not honor the
19 affidavit of prejudice and that insofar as -- as respects
20 any hearing with reference to the nature and extent of
21 the trust assets and the trust created by Defendant
22 Palmer A. Peterson and the distribution to be made thereof,
23 and attorneys' fees to be awarded to the plaintiff in this
24 action.

25 Now, the Court at that time gave me one week

in which to go to the Supreme Court for a writ --

THE COURT: I continued the matter for hearing so that you could take whatever steps you might deem to be appropriate to test my determination.

MR. DALY: I thought that was very fair of you at the time, and I still do.

And I did not make any attempt to go to the Supreme Court for a writ of prohibition because of instructions from my client.

I felt that if this matter was going to the Supreme Court it would have this question reviewed on appeal as well, so therefore I thought I might advise the Court the reason I didn't go to get the writ of prohibition because I had no authority to do it.

THE COURT: I think I indicated -- pardon me. I am sorry. I thought you were through.

MR. DALY: I want the record to note an exception to this hearing this morning upon the grounds we still take the position that the Court has disqualified himself because of the affidavit of prejudice.

Now, as I understand you are going to go forward with the hearing?

THE COURT: Yes.

If the evidence discloses that the assets are no longer in the trustee's possession by virtue of

1 their having been obtained by Defendant Palmer Peterson,
2 I intend to make an order, and I previously made such an
3 order, directing him to return those assets to Defendant
4 Paul Halverson, and I don't intend to stay that order.

5 However, with respect to the distribution of
6 the trust assets, whatever order I make, I will stay
7 for purposes of enabling Defendant Palmer Peterson to
8 make a motion or to appeal.

9 MR. DYGERT: Well, Your Honor, we ask you
10 consider that based on the testimony that you do receive
11 here without committing yourself as far as the stay is
12 concerned now.

13 THE COURT: My point is this: I intend to
14 order him forthwith to return those assets to the
15 trustee and to restrain him from disposing or otherwise
16 transferring those assets.

17 MR. DALY: I want to make a further record at
18 this point. The Defendant Palmer Peterson is objecting
19 to the jurisdiction of this Court over this trust for (1)
20 defective parties.

21 It is fundamental that all parties interested
22 in the outcome of the proceeding must be named.

23 The beneficiaries of this trust are not named
24 as parties, and if it was a trust, they definitely have
25 an interest in the outcome of this proceeding.

1 They were not named as parties, nor are their
2 interests represented, nor was any evidence offered on
3 their behalf; nor were they given an opportunity to
4 be heard in any way, shape or form.

5 And we are objecting to the jurisdiction of
6 this Court over this trust for any purpose in that regard.

7 THE COURT: Well, let me say offhand, Mr.
8 Daly --

9 MR. DALY: On the ground of defective parties.

10 THE COURT: I take it you are not representing
11 any beneficiaries at this time, Mr. Daly?

12 MR. DALY: No.

13 THE COURT: Now, any objection to a defect
14 with respect to parties that should have been named
15 as parties defendant, it seems to me would have had to
16 been raised long before this, not at this point.

17 MR. DALY: I think a jurisdictional question can
18 be raised at any time.

19 MR. RORRIS: Your Honor --

20 MR. DALY: Wait, I am not through.

21 No. 2, we are objecting to the Court making
22 any order with reference to this trust fund in that it
23 never belonged to the plaintiff at any time, nor did she
24 contribute anything to any part of it.

25 The parties, that is the plaintiff in this

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case has never served a garnishment on Palmer Peterson nor on Paul L. Halverson.

They have never served an attachment and the requisite bond on Paul L. Halverson, nor Palmer A. Peterson.

They have never served an injunction on either Palmer A. Peterson or Paul L. Halverson with the requisite bond, nor have any written orders been served upon Paul L. Halverson, so far as I am able to determine.

Now, this divorce case, so far as between Faye Peterson and Palmer A. Peterson, is a divorce case. But as between Faye V. Peterson and Paul L. Halverson, it is not a divorce case. It is in the nature of a civil matter.

And we are objecting to what is attempted to be done here as being unlawful, beyond the jurisdiction of this Court.

Now, that is all I have to say.

MR. MORRIS: I would like to state, Your Honor, that the trustee is a Minnesota resident. All the primary beneficiaries were served with a copy by registered mail. The file will disclose they acknowledged receipt of same, all the beneficiaries.

They got a copy of the amended summons and complaint. They had ample time to answer and appear and defend. A certified affidavit on file will certify to

1 that.

2 MR. DYGERT: The matter of whether there was
3 a defective parties was raised by counsel at the time and
4 ruled on by the Court at that particular time earlier
5 in the --

6 THE COURT: Not by me.

7 MR. DYGERT: I think so. I may be wrong.

8 THE COURT: I don't think I was ever presented
9 the question.

10 MR. DYGERT: I may be in error, but I am quite
11 sure the record will support me.

12 The matter as to whether any injunctions were
13 served upon the defendant --

14 THE COURT: I don't know how material that is.

15 MR. DYGERT: I don't know how many times the
16 Court did order both parties to refrain from disposing
17 or transferring any of those assets. I remember one
18 time specifically when the Court, from the bench, said,
19 "so there can be no further question about it, you are
20 now hereby ordered" and so on.

21 MR. DALY: Did you serve a copy of that order
22 on Halverson?

23 THE COURT: They were so ordered.

24 MR. DALY: That doesn't make any difference.

25 MR. DYGERT: Ordered by the Court from the bench.

1 MR. DALY: Do the minutes of the clerk show this
2 order?

3 MR. FISCH: In behalf of my client, Mr. Halverson,
4 I will state for the record that Mr. Halverson advised
5 me this morning that he was instructed verbally by
6 the Honorable Judge Irving Brand that he was not to take
7 any funds after a certain date from the cash assets or
8 in any way transfer or do anything with those funds until
9 further order of him.

10 That was on December, I think December 6, three
11 years ago, 1960. And he has obeyed that, he tells me.

12 Now, I am only telling you what I know.

13 MR. DALY: I am only representing Palmer
14 Peterson.

15 MR. FISCH: I want the record to show that
16 because that is what I will have to prove.

17 MR. DALY: I only represent Palmer Peterson.

18 MR. FISCH: Because he shows me from the
19 photostatic copy of the account that from and after that
20 date no funds were ever dispensed from this fund, and
21 that the last fund taken out was January 14 and 17 of 1963,
22 or when these funds were paid out of this fund for doctor
23 bills for Dr. Peterson's father, at the time of his death,
24 or immediately thereafter. This was the last funds he
25 ever dispensed, because this order came from Judge Brand,

1 well, until the assets were taken on the 8th day of
2 January of this year.

3 THE COURT: December.

4 MR. FISCH: Yes. Whatever date that was.

5 But between that time, nothing has been with-
6 drawn, and anything that came in went into it.

7 MR. DALY: That is all of the record I have to
8 make.

9 MR. DYGERT: I would like to ask something.

10 The Court, at the conclusion of the last hearing,
11 issued its order from the bench requiring the defendant
12 to bring these trust assets into court, and I am wondering
13 if he is going to be present, and if any of the assets
14 are here?

15 MR. DALY: You will just have to keep wondering.

16 MR. DYGERT: I think counsel should respond.

17 THE COURT: I take it Dr. Peterson is not
18 present in court?

19 MR. DYGERT: I didn't see him, no.

20 Well, Counsel, you know whether or not he is
21 going to be here. I think that is an affront to all of us.

22 THE COURT: Is Dr. Peterson going to testify
23 this morning?

24 MR. DALY: Well, the only thing I can tell you
25 is that as far as I know, he is not going to be here.

1 MR. FISCH: For the record, may I say, so
2 I protect myself, my client, Mr. Halverson, and his wife,
3 Mrs. Halverson, which I understand is a sister of Dr.
4 Peterson, have been unable to locate or find or contact,
5 and they have tried very hard, his brother-in-law, Dr.
6 Palmer Peterson, or her brother, Dr. Palmer Peterson,
7 from and since the 8th day of December, when they got
8 these assets from him.

9 I want the record to show that, too, because
10 I am here thoroughly to put into the record everything
11 we have.

12 And I would like also to offer, and I don't
13 know what the Court wants, all of the dividends and
14 stocks that have been received since that time. We
15 would like to turn over or give to whoever the Court
16 desires or wants to have them; we have them here present
17 in Court, also.

18 MR. DALY: May the record further note that
19 Defendant Palmer Peterson, through myself -- that is, I
20 am making a special appearance here. And the record
21 should further note that this special appearance is to
22 continue throughout these entire proceedings here this
23 morning, and we want a running exception to the
24 jurisdiction of this Court.

25 THE COURT: The record will so show.

1 MR. RORRIS: Your Honor, I would like to
2 state that I checked with Inspector Arnold of the Sheriff's
3 office this morning to see if the bench warrant was
4 served, and they tell me they were unable to locate Dr.
5 Palmer Peterson as of last night when they were out trying
6 to find him.

7 THE COURT: We will proceed then.

8 (The following proceedings were had in Open
9 Court:)

10 THE COURT: I think I would like to hear the
11 following: That is, evidence concerning what assets
12 were received by the defendant Paul Halverson at the time
13 of the creation of the trust, reaffirmance of what he
14 testified to concerning where the assets were located,
15 and what disposition was made of the cash as reflected
16 in the record book that he kept.

17 MR. DYGERT: If the Court please, we would
18 like to call Mr. Halverson, and we would, if it meets
19 with the Court's approval, like to permit his attorney,
20 Mr. Fisch, to examine him in reference to those matters.

21 MR. FISCH: I would be very happy to.

22 PAUL L. HALVERSON
23 being first duly sworn, was examined and testified as
24 follows:
25

DIRECT EXAMINATION

(Transcript of testimony of Paul L. Halverson and
William E. Drexler)

(Transcript of proceedings held January 13, 1965,
Peterson v. Peterson:)

* * *

THE COURT: I think I would like to hear the
following: That is, evidence concerning what assets
were received by the defendant Paul Halverson at the
time of the creation of the trust, reaffirmance of what
he testified to concerning where the assets were located,
and what disposition was made of the cash as reflected
in the record book that he kept.

MR. DYGERT: If the Court please, we would
like to call Mr. Halverson, and we would, if it meets
with the Court's approval, like to permit his attorney,
Mr. Fisch, to examine him in reference to those matters.

MR. FISCH: I would be very happy to.

PAUL L. HALVERSON

being first duly sworn, was examined and testified as
follows:

DIRECT EXAMINATION

BY MR. FISCH:

Q Your full name, please?

A Paul L. Halverson.

Q Where do you live, Mr. Halverson?

A Stillwater, Minnesota.

Q And do you have a brother-in-law, Dr. Palmer Peterson?

1 A Yes.

2 Q Calling your attention, Mr. Halverson, to the 8th day, or
3 on or about the 8th day of, was it December, 1964, did
4 he come to see you?

5 A Yes.

6 Q Where did he come to see you?

7 A At my office at the high school.

8 MR. DALY: One minute, please. May the
9 record note a continuing objection to this witness'
10 testimony as being irrelevant and immaterial.

11 THE COURT: The record will show a continuing
12 objection by Defendant Palmer Peterson to this entire
13 hearing and to all aspects of it.

14 BY MR. FISCH:

15 Q That was at the junior high school in Stillwater,
16 Minnesota?

17 A Yes.

18 Q Where you are the principal?

19 A Yes.

20 Q About what time of day was that?

21 A Oh, between 10:00 and 11:00.

22 Q In the morning, the forenoon?

23 A Yes.

24 Q And was anyone with your brother-in-law, Dr. Peterson?

25 A Yes.

1 Q Who?

2 A Attorney Drexler.

3 Q Do you see your brother-in-law here in the court, Dr.
4 Peterson?

5 A No, I do not.

6 Q Do you see the attorney, Mr. Drexler, here?

7 A Yes, I do.

8 Q Can you indicate which man that is, please?

9 A Yes. The gentleman sitting between the benches, in front
10 of the benches.

11 MR. RORRIS: Could we have Mr. Drexler stand
12 up and be identified by the Court?

13 BY MR. FISCH:

14 Q Was there a conversation at that time between yourself
15 and your brother-in-law and Mr. Drexler all in your office?

16 A Yes.

17 Q And in the presence of each other?

18 A Yes.

19 Q And what was the conversation? Would you relate it to the
20 best of your ability to the Court, please?

21 A Yes. The conversation was opened by Dr. Peterson informing
22 me that Judge Brand had issued an order dissolving the
23 trust and ordering that all assets be turned back to Dr.
24 Peterson. It was necessary that his total net worth be
25 determined. They were to see his accountant that evening

1 to set up the total net worth.

2 And Mr. Drexler then subsequently displayed
3 an order. I saw Judge Brand's signature on it. He
4 interpreted a few things from it.

5 THE COURT: What did he say?

6 MR. FISCH: Could I just offer the exhibit,
7 Your Honor, please?

8 Would you mark that as Defendant Halverson's
9 Exhibits 1, 2 and 3.

10 (Defendant Halverson's Exhibits 1,
11 2 & 3 marked for identification.)

12 BY MR. FISCH:

13 Q I will show you, Mr. Halverson, Halverson's Exhibits 1,
14 2 and 3. Will you look at them, please?

15 A Yes.

16 Q Will you tell me what they are? Just read from the top
17 what are they?

18 A Well, they are Notice of Filing Findings of Fact,
19 Conclusions of Law and Order for Judgment and Notice of
20 Hearing.

21 Q All right. That is No. 1. What is No. 2?

22 A That is an amendment to Judgment and Decree.

23 Q What is No. 3?

24 A The last one?

25 Q Yes.

1 A That is entitled Order, is what it says.

2 Q All right. Now, you look at these. On the 8th day
3 of December when they came, at that conversation, had you
4 received any of these exhibits, 1, 2 and 3?

5 A None of them.

6 Q When did you get these exhibits, 1, 2 and 3?

7 A Exhibits 1 and 2 I received either on the 10th or 11th.

8 Q How?

9 A From a sheriff in Washington County.

10 Q Yes. That was two or three days after?

11 A Yes.

12 Q When did you get Exhibit 3?

13 A Well, it is a few days ago.

14 Q From the sheriff, again?

15 A No. This was mailed.

16 Q You got this in the mail?

17 A Yes.

18 MR. DALY: Is that the order of the 7th?

19 MR. FISCH: Yes, the 7th.

20 BY MR. FISCH:

21 Q Now, let me ask you something: At the time of this
22 conversation did either Dr. Peterson or Mr. Drexler
23 have a like or similar duplicate original of 1 and 2
24 with them?

25 A Yes; at least one.

1 Q This one?

2 A Yes.

3 Q Exhibit 1?

4 A Yes. Possibly 2. I couldn't say.

5 Q All right. But 1, for sure? You are sure of that?

6 A Yes.

7 Q And were there some quotations made?

8 A Yes.

9 Q From Exhibit 1, to you in the conversation?

10 A Yes.

11 Q Would you relate to the Court, and holding this, tell,
12 to the best of your ability, the quotations or conver-
13 sation that was relative to Exhibit 1, and by whom it
14 was made, please?

15 A Directly interpreting this would be Attorney Drexler.

16 THE COURT: State who was speaking.

17 BY MR. FISCH:

18 Q Who did the talking and who had the exhibit?

19 A Mr. Drexler.

20 Q What did he say about it to you?

21 A Well, I could sum it into possible two statements. One,
22 that the trust was set aside; and, two, that all assets
23 were to be returned to Dr. Peterson. This, in essence,
24 was what was said, quoting from whatever page it be here,
25 and showed me one section in here that does saying something

1 about this; also indicating Judge Brand's signature, which
2 I think this was signed by Judge Brand.

3 Q There was his signature that was shown?

4 A Yes.

5 Q I want you to look at the last page of this exhibit
6 and what does this part of the exhibit state on the top?

7 A Memorandum.

8 Q Now, calling your attention to the last paragraph of
9 that Memorandum, particularly this last paragraph under
10 which are the initials "IRB." You look at that and you
11 tell the Court what you remember about being quoted
12 from that paragraph by someone in that conversation. Will
13 you tell the Court, please?

14 A Essentially what it says here: In view of the foregoing
15 the trust in question should be set aside and the trust
16 assets treated as assets of defendant Peterson.

17 Q Yes. That is what was told to you, was it?

18 A Yes.

19 Q Is there anything further in that paragraph?

20 A Yes.

21 Q Further along?

22 A Yes.

23 Q I wish to have you read that.

24 A "Subject to the jurisdiction of the Court."

25 Q Was that told to you in this conversation?

1 A No.

2 Q And you believed that conversation, did you?

3 A Yes, I did.

4 Q And as a result of it, what did you do after you had this
5 conversation with Dr. Peterson and Mr. Drexler? Where
6 did you three go?

7 A We went downtown and subsequently --

8 THE COURT: Downtown where?

9 THE WITNESS: Stillwater.

10 BY MR. FISCH:

11 Q Where did you go in Stillwater?

12 A Mr. Drexler and I went to the Washington Federal Savings
13 and Loan.

14 Q Did Dr. Peterson accompany you?

15 A He did not accompany us to the bank.

16 Q All right. Not to the bank. You mean the Federal Savings
17 and Loan?

18 A Right.

19 Q What did you do after you arrived there?

20 A We withdrew the money.

21 THE COURT: Who withdrew?

22 THE WITNESS: Well, I withdrew it, yes.

23 BY MR. FISCH:

24 Q You withdrew the money?

25 A Yes.

1 Q And was there a conversation with Mr. Drexler and
2 yourself there?
3 A Yes, there was.
4 Q And when you withdrew the money what did the Federal
5 Savings and Loan people do?
6 A They wrote a check.
7 Q They issued you a check?
8 A Yes.
9 Q And was it payable to who?
10 A Dr. Peterson, upon Mr. Drexler's recommendation.
11 Q And not to you as trustee?
12 A Not to me, no.

13 MR. FISCH: Would you mark that for me, please?

14 (Defendant Halverson's Exhibit
15 4 marked for identification.)

16 THE COURT: At the time that this money
17 was withdrawn, did you, or did Mr. Drexler in your
18 presence, exhibit any court order to anybody at the
19 bank, to any officer or any official?

20 THE WITNESS: No.

21 BY MR. FISCH:

22 Q I will show you, Mr. Halverson, Halverson's Exhibit 4.
23 You look at it, if you please. Tell me what that is?
24 A This is a photostatic copy of the bank's records of the
25 trust fund.

1 Q Of the Federal Savings and Loan's record. Of the
2 account of the funds that you were trustee of with
3 Dr. Peterson?

4 A Yes.

5 Q Is that right?

6 A Yes.

7 Q And turning to the second page of that, will you tell
8 the Court how much, exactly, the check that was withdrawn
9 by Dr. Peterson, by you for Dr. Peterson, in Dr. Peterson's
10 name, on the 8th day of December, 1964, was, how much?

11 A \$8,002.63.

12 Q And that was a check of the Federal Savings and Loan?

13 A Yes.

14 Q Now, was there any conversation between you and Drexler
15 and the people in the bank as to what was to be done?

16 THE COURT: Is this being offered?

17 MR. FISCH: Yes. All of these are being
18 offered.

19 MR. DYGERT: No objection.

20 MR. FISCH: So the Court will have before it
21 all that we have.

22 THE COURT: Excuse me. Mr. Daly --

23 MR. DALY: I want the record to note an
24 objection upon the ground that it is irrelevant,
25 immaterial and incompetent, and upon the further ground

1 that the Court is without jurisdiction to hear this matter

2 THE COURT: If those are the grounds, overruled.

3 Received.

4 (Defendant Halverson's Exhibits
5 1, 2, 3 and 4 received in
6 evidence.)

7 BY MR. FISCH:

8 Q Was there some conversation about the check itself?

9 A Yes.

10 Q Will you relate it and who said what, and who answered
11 and so on?

12 A To begin with, Mr. Drexler wanted a cashier's check.

13 Q Rather than the check?

14 THE COURT: State what he said. Did he say,
15 "I want a cashier's check."

16 THE WITNESS: Yes.

17 THE COURT: To whom did he say that?

18 THE WITNESS: To me, and the girl that was
19 at the bank.

20 BY MR. FISCH:

21 Q To the girl in the Federal Savings and Loan, is that
22 correct?

23 A Yes.

24 MR. DALY: Excuse me. I want the record to
25 note an objection on the ground that this Court has no

1 jurisdiction over these funds or over the disposition
2 of them upon the ground that no writ of attachment was
3 ever served with the required bond;

4 Upon the further ground that no garnishment
5 was ever served on this man or anybody else;

6 Upon the further ground --

7 THE COURT: Garnishment served upon whom?

8 MR. DALY: On Mr. Halverson or the bank.

9 Upon the further ground, there is no
10 injunction pursuant to statute with the required bond
11 ever served upon this man or any bank, upon this witness;

12 Upon the further ground that no written order
13 was ever served on Paul Halverson not to dissipate
14 these funds;

15 And upon the further ground that the nature
16 and extent and location of these funds at this time is
17 immaterial.

18 THE COURT: Overruled.

19 BY MR. FISCH:

20 Q Now, Mr. Halverson, going back to the Federal Savings and
21 Loan -- what is the real name of the company?

22 A Washington Federal Savings and Loan.

23 Q Washington Federal Savings and Loan. There is a young
24 lady there preparing a check for Dr. Palmer Peterson
25 and Mr. Drexler and yourself?

1 A Yes.

2 Q And there is a conversation relative to this check. What
3 did anybody there, the girl, yourself and Mr. Drexler
4 say? Who said it, and to the best of your ability, relate
5 it?

6 A Mr. Drexler asked how the money would be paid, and said he
7 should have a cashier's check because the court would
8 accept only a cashier's check.

9 Q What did the girl say?

10 A Well, the girl said it would cost considerable money to
11 have a cashier's check for \$8,000, and explained to Mr.
12 Drexler that obviously their check was good and there
13 would be no question about it.

14 Q Then what was said?

15 A Well, Mr. Drexler agreed to take the check directly
16 from Washington Federal Savings and Loan.

17 Q Did he take that check?

18 A Yes, he did.

19 Q And did he leave with that check?

20 A Yes.

21 Q And you have never seen it again?

22 A No, I haven't.

23 Q All right. What time were you at the Washington Federal
24 Savings and Loan?

25 A Between 10:00 and 11:00, somewhere in there.

- 1 Q How did you get back to school?
- 2 A They gave me a ride back.
- 3 Q Did you see Dr. Peterson after you left the Washington
- 4 Savings and Loan?
- 5 A Yes. He was waiting in the car.
- 6 Q Outside?
- 7 A Outside.
- 8 Q Of the Building and Loan?
- 9 A Yes.
- 10 Q In Stillwater?
- 11 A Yes.
- 12 Q And you were taken back to the school?
- 13 A Yes.
- 14 Q Did you then later that day see Dr. Peterson, your
- 15 brother-in-law, and Mr. Drexler again?
- 16 A Yes.
- 17 Q Where?
- 18 A At my house. They came to the house. I had just returned.
- 19 Q What time?
- 20 A This was probably 4:30.
- 21 Q In the afternoon of December 8th?
- 22 A Yes. I had just returned.
- 23 Q 1964?
- 24 A Yes.
- 25 Q And both of them came into the house?

- 1 A Well, I talked with them outside.
- 2 Q You met them outside?
- 3 A I was just outside. I just returned.
- 4 Q From the school?
- 5 A Yes.
- 6 Q From your day's work at school?
- 7 A Yes.
- 8 Q And was there a conversation there at that time?
- 9 A Yes.
- 10 Q What was the conversation, what did each party say, and
- 11 the answer, to the best of your ability, please?
- 12 A I think Dr. Peterson said that they had forgotten about
- 13 the securities that morning when they were out.
- 14 Q Now, by the securities, those were the ones that were
- 15 in this trust?
- 16 A That is correct.
- 17 Q You never had them in your possession?
- 18 A No.
- 19 Q They were in whose possession, so far as you knew?
- 20 A The firm of Woodard-Elwood.
- 21 Q The stock and bond people?
- 22 A Yes.
- 23 Q And you never had them, never had control of them, never
- 24 had them in your possession?
- 25 A No.

1 Q All right. All you know was what someone had told you
2 about that?

3 A That is correct.

4 Q All right. What did they say about those?

5 A They had forgotten to bring them in the morning.

6 Q Yes. Who said this now?

7 A Dr. Peterson introduced it as such.

8 Q Then what?

9 A And then Mr. Drexler said they had to be signed.

10 Q By whom?

11 A By me.

12 Q And did you sign them then?

13 A Yes.

14 Q And they were all signed. Then after you signed them,
15 who took them?

16 THE COURT: Excuse me. Who had physical
17 possession of them when Dr. Peterson and Mr. Drexler
18 met you at the house?

19 THE WITNESS: Mr. Drexler.

20 THE COURT: Mr. Drexler?

21 THE WITNESS: Yes.

22 THE COURT: Did he indicate to you where he had
23 obtained them?

24 THE WITNESS: Yes.

25 THE COURT: What did Mr. Drexler say?

1 THE WITNESS: From Woodard-Elwood.

2 BY MR. FISCH:

3 Q Then they had you sign them?

4 A Yes.

5 Q And who took them?

6 A Drexler.

7 Q And then did they leave?

8 A Yes. Well, I might say that Mr. Drexler and I went
9 in the house to sign these. Dr. Peterson went over to
10 the school to see his sister, Mrs. Halverson. And
11 subsequently then I took Mr. Drexler over to the school
12 and he rejoined Dr. Peterson and they left.

13 Q And Mrs. Halverson, your wife, is his sister?

14 A Yes.

15 Q She evidently teaches school, too?

16 A Yes; at the elementary school.

17 Q I see. Now, did you ascertain --

18 (Defendant Halverson's Exhibit 5
19 marked for identification.)

20 Q After this 8th day of December, 1964, did you contact
21 Woodard-Elwood and talk to -- who did you talk to?

22 A Mr. Haverstock.

23 THE COURT: When was this?

24 THE WITNESS: I think the date is on there,
25 I believe.

1 BY MR. FISCH:

2 Q I will show you this exhibit. Is this the note you
3 made from the conversation with Woodard-Elwood?

4 A Yes. On December 6.

5 Q With Mr. Haverstock?

6 A Yes.

7 Q And that was on December 8, 1964?

8 A Yes.

9 THE COURT: This was on the same day?

10 THE WITNESS: No, no. This was later. This
11 should be January 6.

12 BY MR. FISCH:

13 Q 1965?

14 A '65, yes.

15 Q You called and got this?

16 A I called Mr. Haverstock.

17 Q On January 6 you telephoned Mr. Haverstock?

18 A Yes.

19 Q January 6, 1965?

20 A Right.

21 THE COURT: What did you talk to him about?

22 THE WITNESS: I asked him for a listing of the
23 stocks that were turned over to Drexler and Peterson.

24 MR. RORRIS: May we interject. Let the record
25 show Mr. Haverstock is in the courtroom.

1 THE COURT: I appreciate that. I merely
2 want to know what you asked him for.

3 THE WITNESS: I asked him for the numbers
4 of the stocks and their value as of December 8, the day
5 they were picked up.

6 BY MR. FISCH:

7 Q Did he give you that over the phone?

8 A Yes, he did.

9 Q And you copied them down?

10 A Yes.

11 Q And this is what you copied and took down?

12 A Yes.

13 Q And as the value that Mr. Haverstock told you those shares
14 were as of December 8, is that what he gave you?

15 A The day they were removed.

16 Q Was how much money?

17 A \$27,144.62.

18 Q And this consisted of the following stocks and the value?

19 A Yes.

20 Q Would you read them, please?

21 THE COURT: Well, they will speak for themselves.
22 Are you offering them?

23 MR. FISCH: Yes. I offer it in evidence.

24 THE COURT: Same objection, Mr. Daly, will
25 apply to all of these.

1 MR. DYGERT: No objection.

2 THE COURT: Received.

3 (Defendant Halverson's Exhibit 5
4 received in evidence.)

5 (Defendant Halverson's Exhibits
6 6 and 7 marked for identification.)

7 BY MR. FISCH:

8 Q I will you show you, Mr. Halverson, Halverson's Exhibit
9 7, and ask you what that is -- 6, excuse me.

10 A Trust income since December 10.

11 Q This is written in your own handwriting?

12 A Yes.

13 Q And it is true and accurate and correct?

14 A Yes.

15 Q This is what you have received from and since the 8th
16 day of December?

17 A Yes.

18 Q Of 1964, in this trust; is that right?

19 A That is correct.

20 Q Now, let me show you Halverson's Exhibit 7, and I will
21 ask you what that is?

22 A Do you want me to read?

23 Q No. What is that?

24 A They are checks and the stock certificate.

25 Q That has been received by you?

1 A Yes.

2 Q As the trustee, from and since the 8th day of December,
3 1964?

4 A Yes.

5 Q And that is the entirety of it?

6 A That is everything.

7 Q Thank you.

8 MR. FISCH: I offer this in evidence.

9
10 Q MR. DYGERT: There is no objection, Your Honor,
11 except that I trust we can make some arrangement to have
12 the checks copied, and whatever distribution the Court
13 orders as to the funds, they can be removed from evidence.

14 THE COURT: Received.

15 (Defendant Halverson's Exhibits
16 6 & 7 received in evidence.)

17 BY MR. FISCH:

18 Q Now, Mr. Halverson, let me ask you this: When you were
19 in court here at one time were you told by the Court,
20 Judge Brand, that no more funds were to be dispensed from
21 the fund?

22 A Yes.

23 Q And about when was that?

24 A Oh, I imagine about a year ago, or thereabouts.

25 Q Yes. And no funds were ever dispensed by you from that
fund?

1 A None.

2 Q You took only what came in?

3 A That is correct.

4 Q Except when they came and told you that this was done
5 and you could turn it over to them for audit and make
6 the net worth for Dr. Peterson?

7 A Nothing distributed until that time.

8 Q And nothing since?

9 A Nothing since.

10 Q And, Mr. Halverson, have you tried to find or locate
11 your brother-in-law, Dr. Peterson?

12 A Yes, we have.

13 Q And have you been able to locate or find him?

14 A No.

15 Q You have not?

16 A No.

17 MR. FISCH: All right. That is all.

18 MR. DYGERT: May I inquire, Your Honor?

19 THE COURT: You may.

20 CROSS-EXAMINATION

21 BY MR. DYGERT:

22 Q In the morning of December 8 when Mr. Drexler and Dr.
23 Peterson were out there, was there any mention made
24 of the stock certificates at that time?

25 A None.

- 1 Q Did you execute any authorization to Woodard-Elwood
2 Company or anyone else authorizing them to turn over
3 these certificates to Dr. Peterson and Mr. Drexler or
4 to anyone else?
- 5 A No.
- 6 Q Did you do anything with reference to the stock certificates
7 until Mr. Drexler arrived that afternoon and had you
8 endorse them?
- 9 A No.
- 10 Q Have you had any contact with Mr. Drexler since that
11 time?
- 12 A Yes.
- 13 Q What was the nature of that contact?
- 14 A I called him relative to a meeting that was called,
15 I think the 16th, which I was advised it was not
16 necessary.
- 17 Q That was a hearing before this Court?
- 18 A Yes.
- 19 Q And did he advise you that it was not necessary for you
20 to be present?
- 21 A Didn't think it was necessary; that is right.
- 22 Q Pardon?
- 23 A It would not be necessary.
- 24 Q I see.
- 25 A And subsequently, on the 31st, and offered that he act

1 as attorney and sent out papers for me to sign giving
2 him power of attorney.

3 Q Did you sign those papers?

4 A Yes.

5 Q And returned them to him by mail?

6 A Yes.

7 THE COURT: Excuse me. Just one moment.
8 When did he send papers out to you?

9 THE WITNESS: The date?

10 THE COURT: Approximately.

11 THE WITNESS: It would be a few days before
12 the holidays. I was still at Stillwater, before I
13 went.

14 THE COURT: Before the Christmas holidays?

15 THE WITNESS: Yes, before shortly.

16 THE COURT: These were papers giving him a
17 power of attorney?

18 THE WITNESS: That is correct.

19 THE COURT: Power of attorney to do what?

20 THE WITNESS: To represent me on the 31st, or
21 Mr. Daly. They were made out for one for Mr. Drexler
22 and one for Mr. Daly.

23 THE COURT: To represent you as an attorney
24 or to represent you personally?

25 THE WITNESS: Well, me, personally. Mr. Daly

1 also advised me it was not necessary to be here the 31st.

2 BY MR. DYGERT:

3 Q I take it, Mr. Halverson, that at the time these papers
4 were sent to you, you had already had notice of the
5 hearing on the 31st?

6 A Yes.

7 Q And you had made inquiry of someone as to whether it was
8 necessary for you to be there?

9 A Yes.

10 Q And that was Mr. Drexler?

11 A Yes.

12 MR. DALY: Also me.

13 THE WITNESS: Also Mr. Daly.

14 MR. DALY: You called both of them.

15 THE WITNESS: Yes.

16 BY MR. DYGERT:

17 Q How did you happen to get ahold of Mr. Daly?

18 A I don't know whether it was his office or his home.

19 Q I mean, why was it that you picked his name out to call?

20 A Well, I had been told Mr. Daly was representing Peterson.

21 Q I see. Who told you that?

22 A Well, Mr. Drexler or Mr. Peterson.

23 Q Back on December 8th?

24 A Yes. Because I questioned Mr. Drexler, whom I hadn't
25 met, and it was explained to me he was acting for Mr. Daly.

1 Q Was that in the morning or afternoon?

2 A Morning.

3 Q Did you have any further contact with Mr. Drexler or Mr.
4 Daly?

5 A I think I talked with Mr. Daly, I think, the evening
6 before, it would be the 3rd of January.

7 Q That was in reference to a hearing that was coming up?

8 A On the 4th, yes.

9 Q And what was that conversation?

10 A I inquired of Mr. Daly, what the hearing was going to be
11 about.

12 Q You had then been subpoenaed for that hearing, had you
13 not?

14 A For the 4th? Yes, I think it was mailed. Mr. Rorris
15 mailed out a subpoena for me.

16 Q And what was the substance of your conversation at that
17 time?

18 A It was very short. Mr. Daly assured me there was nothing
19 to be concerned about.

20 Q When the hearing on January 4 occurred, I believe you were
21 present, were you not?

22 A Yes.

23 Q And at that time Mr. Daly stated that he was not
24 representing you, do you recall that?

25 A Yes.

1 Q Do you recall when it was that he ceased to represent
2 you in the matter?

3 MR. DALY: When he recalls what?

4 THE COURT: Well, on January 4, Mr. Daly said
5 he was not representing you.

6 THE WITNESS: Yes, that is correct.

7 THE COURT: Now, prior to January 4, did you
8 have any contact with Mr. Daly or with Mr. Drexler
9 in which either advised you that this power of attorney
10 that you executed and any other authorization you gave
11 them to represent you was no longer to be recognized or
12 no longer effective?

13 THE WITNESS: Would you restate that, please?

14 THE COURT: You have indicated that you executed
15 a power of attorney to Mr. Drexler.

16 THE WITNESS: Yes.

17 THE COURT: You have also testified that
18 you had contact with Mr. Daly and Mr. Drexler regarding
19 appearance in court by you on December 15 and December 31
20 and January 4. They advised you it was not necessary
21 for you to appear on the 15th and 31st.

22 THE WITNESS: That is correct.

23 THE COURT: Or either or both advised you that.

24 THE WITNESS: Right.

25 THE COURT: Now, prior to January 4, did Mr.

1 Drexler advise you that he was not going to act on your
2 behalf?

3 THE WITNESS: No.

4 THE COURT: In connection with any power of
5 attorney that you gave him?

6 THE WITNESS: Well, this was to cover the --
7 that it wouldn't be necessary for me to be here on the
8 31st because they would take care of it.

9 THE COURT: Who said that?

10 THE WITNESS: Mr. Drexler.

11 THE COURT: He said who would take care of it?

12 THE WITNESS: Well, Mr. Drexler and Mr. Daly.

13 THE COURT: Would take care of what?

14 THE WITNESS: My appearance.

15 THE COURT: On the 31st?

16 THE WITNESS: On the 31st.

17 THE COURT: All right.

18 MR. FISCH: I think your testimony was only
19 for the 31st.

20 THE WITNESS: Yes.

21 MR. FISCH: That is all it covered, and that
22 ceased after the 31st.

23 THE WITNESS: As far as I am concerned, yes.

24 MR. FISCH: That was your understanding?

25 THE WITNESS: Yes.

1 BY MR. DYGERT:

2 Q Now, did you at any time ask Mr. Drexler for these assets
3 to be returned to you?

4 A Yes.

5 Q When did that occur?

6 A I can't tell you the day.

7 THE COURT: Approximately.

8 THE WITNESS: Well --

9 THE COURT: Was it after the January 4th hearing?

10 THE WITNESS: I really can't say. It would be
11 in that neighborhood.

12 THE COURT: Where did you see Mr. Drexler?

13 THE WITNESS: I talked to him on the telephone.

14 THE COURT: What did you say and what did he
15 say?

16 THE WITNESS: Well, I saw how things were, I
17 think it was after the 4th, that they be returned. This
18 was the definite statement.

19 THE COURT: Yes. What did Mr. Drexler say?

20 THE WITNESS: Well, he didn't know where they
21 were.

22 THE COURT: He said he did not know where they
23 were?

24 THE WITNESS: That is right.

25 THE COURT: You asked him to return what?

1 THE WITNESS: The total trust assets.

2 BY MR. DYGERT:

3 Q Have you received any information as to the whereabouts
4 of Dr. Peterson?

5 A None whatsoever.

6 Q Have you made any demand of anyone else besides Mr.
7 Drexler in reference to the return of these assets?

8 A I think the day we left the court here on the 7th I
9 suggested to Mr. Daly they better be -- they should be
10 returned, to convey it to his client.

11 MR. DYGERT: No further questions.

12 MR. FISCH: And to date you have not received
13 the assets?

14 THE WITNESS: That is correct.

15 MR. FISCH: And you have kept these that have
16 come to you by mail?

17 THE WITNESS: By mail, yes.

18 THE COURT: That you turned into the court?

19 THE WITNESS: Yes.

20 MR. FISCH: That is all that is in your possession?

21 THE WITNESS: That is all that I have.

22 MR. DALY: Let the record show that I am
23 continuing a special appearance and I want to ask this
24 witness a few questions.

25 BY MR. DALY:

1 Q Now, Mr. Halverson, you are a party to this lawsuit?

2 THE COURT: Do I understand you are appearing
3 specially, but you are nevertheless inquiring of this
4 witness.

5 MR. DALY: Yes.

6 MR. FISCH: I don't know how you can do that.

7 THE COURT: Let the record speak for itself
8 in that regard.

9 MR. DALY: It is satisfactory with me, Your
10 Honor.

11 BY MR. DALY:

12 Q Mr. Halverson, you are a party to this lawsuit?

13 MR. FISCH: Object to that. He is not a
14 party to this lawsuit. He is just a witness and the
15 trustee, but not a party to this.

16 THE COURT: He is a named defendant in the
17 case.

18 BY MR. DALY:

19 Q You are a named defendant in this case?

20 A Yes.

21 Q Now, you are not now married to Faye Peterson, are you?

22 A No.

23 Q And you never have been?

24 A No.

25 Q And you haven't had no contractual relation with her of

V, p. 3

1 any kind?

2 A No.

3 Q She is a completely free and independent person from you?

4 A Yes.

5 Q Now, in this proceeding have you ever been served with
6 a garnishment?

7 A No.

8 Q You do know what a garnishment looks like?

9 A No, I have never seen one.

10 Q Well, you have never been served with a paper marked
11 "Garnishment," is that right?

12 A Right.

13 Q And during this proceeding have you ever been served
14 with a paper marked "Injunction"?

15 A No.

16 Q Or have you ever been served with a bond, together with
17 a paper marked "Injunction"?

18 A No.

19 Q Have you during this proceeding ever been served with
20 a paper marked "Writ of Attachment"?

21 A No.

22 Q Or a bond together with a writ of attachment?

23 A No.

24 Q And, as I understand it, when you turned these funds
25 back to Dr. Palmer Peterson, you never had been served

- 1 with any written order of any kind; is that right?
- 2 A That is right.
- 3 Q Now, you indicated you had some conversations with me
- 4 with reference to these matters from time to time?
- 5 A Yes.
- 6 Q You at no time have ever retained me to represent you
- 7 for any purpose?
- 8 A No, not other than what was incidental to what was going
- 9 on.
- 10 Q You called me over the phone for advice with reference
- 11 to your status as a witness on an occasion; is that
- 12 right?
- 13 A Yes.
- 14 Q Now, with reference to any conversation we may have had
- 15 with reference to any appearance which you were to make,
- 16 you asked me if it was necessary for you to appear; is
- 17 that right?
- 18 A That is right.
- 19 Q And I inquired of you if you had been served with a
- 20 subpoena; is that right?
- 21 A Yes.
- 22 Q And I inquired further with you if you had been served
- 23 with a court order of any kind; is that right?
- 24 A Yes.
- 25 Q And based upon that information, I told you that you were

1 not required to appear; isn't that correct?

2 A Yes.

3 Q And that you need not appear at any of these hearings;
4 is that right?

5 A Yes.

6 Q And I believe you indicated you had a conversation with
7 me before the hearing on the 4th of January.

8 A Yes.

9 Q And you related to me at that time you had been served
10 with an order to appear?

11 A Yes.

12 Q And, as a matter of fact, I advised you to appear and
13 tell the truth, did I not?

14 A Yes.

15 Q And you have never retained Mr. Drexler as such for any
16 purpose?

17 A No.

18 Q And you mentioned a power of attorney.

19 A Yes.

20 Q Do you have copies of these powers of attorney?

21 A I do not.

22 Q And you never sent any power of attorney to me?

23 A Mr. Drexler sent it out with your name on it. So I
24 signed one for him and one for you.

25 Q But in any event, you never sent any power of attorney to

1 me.

2 A Not to you directly, no, to Mr. Drexler.

3 Q Nor have you and I ever had any conversation with
4 reference to any power of attorney?

5 A That is right.

6 MR. DALY: I believe that is all.

7 MR. FISCH: Mr. Halverson, let me ask you
8 this question: There was some reason why you called
9 about the appearance on the 31st. Was there some
10 illness in the family?

11 THE WITNESS: My mother was ill and I felt
12 that I wanted to remain in Wisconsin until she was
13 somewhat better.

14 MR. FISCH: And you were there and spent your
15 time with your mother?

16 THE WITNESS: Yes.

17 MR. FISCH: All right. Anything further, Your
18 Honor?

19 THE COURT: I have nothing further.

20 You may step down, Mr. Halverson.

21 (Witness excused.)

22 * * *

23 MR. DYGERT: I think we better call Mr.
24 Drexler.

25 MR. DALY: Are you calling Mr. Drexler or are

*Insert
Halverson's
testimony*

1 (Transcript of testimony of James E. Haverstock
2 given January 13, 1965 -- Peterson v. Peterson:)

3 * * *

4 MR. DYGERT: If the Court please, I think we
5 would like to call Mr. Haverstock of Woodard-Elwood at
6 this time.

7 JAMES E. HAVERSTOCK
8 being first duly sworn, was examined and testified as
9 follows:

10 DIRECT EXAMINATION

11 BY MR. DYGERT:

12 Q Mr. Haverstock, you have previously testified in this
13 matter, have you not?

14 A Yes, I have.

15 Q And are you still a representative of Woodard-Elwood
16 Company?

17 A Yes, I am.

18 Q And have you, during all the time that this case has
19 been going on, been in charge of this particular account
20 that contained securities under the name of Paul L.
21 Halverson, as trustee?

22 A Our Company has, yes.

23 Q And has it been your responsibility within the Company
24 to handle that particular account?
25

1 A Yes.

2 Q When you last testified, Mr. Haverstock, there was some
3 question as to whether the account name had been transferred
4 from Palmer Peterson to Paul Halverson as trustee. Do
5 you recall whether that was accomplished by that time
6 that you testified or some time after that?

7 A I presume that it was, yes.

8 Q Do you have some of the records of Woodard-Elwood in
9 your possession?

10 A Yes, I do.

11 Q What do they show as to how this account was carried in
12 your records?

13 A Well, according to our records it is Mr. Paul L.
14 Halverson, trustee, from the account of Dr. Palmer A.
15 Peterson.

16 Q From the account?

17 A Well, previously the account.

18 Q Do your records show when the title of that account was
19 changed?

20 A No.

21 THE COURT: As of what date did it bear that
22 title, did the account bear that caption?

23 THE WITNESS: April 20, 1964.

24 BY MR. DYGERT:

25 Q And at all times since that time?

1 A Yes.

2 Q Since April 20, 1964, has there been any activity in that
3 account?

4 A None.

5 Q I take it that you may have received some stock dividends
6 in that period of time?

7 A Yes.

8 Q No withdrawals or other changes?

9 A No withdrawals or other changes.

10 Q Showing you a document which has been marked Halverson's
11 Exhibit 5, does that correctly state the list of the
12 securities that were in that account as of December 8, 1964?

13 A I find one error.

14 Q What is that?

15 A They show there are 222 shares of One William Street Fund,
16 and our records show there are 221 shares of One William
17 Street Fund. There is one share difference. It might
18 have been a stock dividend.

19 Q You also have a list of the securities?

20 A Yes.

21 Q May I see it please? Is this list the receipt that you
22 obtained on December 8 when these certificates were turned
23 over to someone?

24 A Yes.

25

(Plaintiff's Exhibit A-Hearing

marked for identification.)

Q Showing you what has been marked as Plaintiff's Exhibit A-Hearing, will you identify what that is for the record?

A Yes. This is a signed receipt.

Q By whom is it signed?

A Dr. Palmer A. Peterson.

Q Was that signed in your presence?

A Yes.

Q I observe that a line has been marked through it. What is the significance of that?

A I don't know.

Q Was that line on there when it was signed?

A I don't know. I think it is just a line saying file, for our file girl, but I am not absolutely sure.

Q What is the significance of file over here with the red underlining?

A That is just to have this receipt filed in the account we carry in the office.

MR. DYGERT: We offer in evidence Plaintiff's Exhibit A-Hearing.

MR. DALY: Does this show the records with reference to your dealings with the funds belonging to Palmer A. Peterson?

THE WITNESS: Yes.

MR. DALY: I just want to note my continuing

1 objection to all of this activity.

2 THE COURT: Received.

3 (Plaintiff's Exhibit A-Hearing
4 received in evidence.)

5 BY MR. DYGERT:

6 Q Now, between the time of April, 1964, and December 8,
7 1964, did you have contact with any person or persons
8 in reference to this account?

9 A No.

10 Q You had no contact with Dr. Peterson during that period
11 of time?

12 A No. None other than he came in the office on December 8,
13 1964.

14 Q All right. Did you have any contact during that period
15 of time with Mr. Halverson?

16 A To my knowledge, no.

17 Q Now, will you inform the Court what happened on December
18 8, 1964?

19 A On December 8, Dr. Peterson came into our office just as
20 I was going to lunch.

21 Q Was he alone?

22 A No. He was with William E. Drexler, an attorney.

23 Q And is this the Mr. Drexler who is sitting here in the
24 courtroom?

25 A Yes.

1 Q Proceed.

2 A And they said that --

3 THE COURT: Who said?

4 THE WITNESS: Dr. Peterson said that they had
5 received a court order to dissolve the trust, to make
6 it part of his assets, and that a lump sum settlement
7 would be made in his divorce proceedings, and I said --
8 well, turning to his attorney, I said, "Well, is this
9 correct?" And he said, "Yes, this is correct."

10 BY MR. DYGERT:

11 Q That is Mr. Drexler?

12 A Yes.

13 Q He was identified as Dr. Peterson's attorney in that
14 circumstance?

15 A That is right. And I asked Mr. Drexler if I was to turn
16 the certificates over to Dr. Peterson as he requested,
17 and Mr. Drexler said, "This is correct," that I should,
18 and that they had planned to take these certificates out,
19 and with this court order get Paul L. Halverson's signature
20 on these certificates.

21 Q At that time were you shown any court order in reference
22 to this matter?

23 A No, I wasn't.

24 Q Any other document in reference to this matter?

25 A No.

1 Q Any authorization from Mr. Halverson to turn these
2 certificates over to Dr. Peterson or his attorney?

3 A I beg your pardon?

4 Q Did you have any authorization from Mr. Halverson to turn
5 these certificates over to Dr. Peterson or his attorney?

6 A No.

7 Q Proceed with what occurred then.

8 A Then they said that they planned to, because they had the
9 authority, go out and have these certificates signed
10 by Paul L. Halverson and make the assets part of his,
11 his assets, Dr. Peterson's assets. So I turned the
12 certificates over to them.

13 Q And obtained that receipt?

14 A And obtained this receipt that you see here. And I
15 was of the opinion that they were going right directly
16 out to Stillwater to have these certificates signed.

17 MR. DALY: That is objected to as immaterial,
18 and move it be stricken.

19 THE COURT: Stricken.

20 BY MR. DYGERT:

21 Q Now, did you have something to do with these certificates
22 at a later date?

23 A No, none other than give a list of the value of them.

24 Q You have now prepared a list of the value at my
25 request; is that correct?

1 A Yes.

2 Q Did you know or do you know whether the certificates,
3 after endorsement by Mr. Halverson, were returned to
4 Woodard-Elwood Company for transfer?

5 A I would have known, and they were not.

6 Q Have you any information as to the location or what has
7 happened to these certificates since they left your
8 office on December 8, 1964?

9 MR. DALY: Objected to --

10 THE WITNESS: I do not.

11 MR. DALY: Objected to as obviously hearsay.

12 THE COURT: Objection overruled. He is being
13 asked if he knows where they are.

14 THE WITNESS: I do not know where they are or
15 where they went.

16 BY MR. DYGERT:

17 Q You have no information?

18 A I have no information on that.

19 Q Now, when you were in the courtroom here during the trial
20 of this matter, Mr. Haverstock, I believe you heard
21 testimony of several witnesses, did you not?

22 A No. I testified and I left, as I remember.

23 Q You were aware, of course, of the nature of the trust
24 that is involved in this matter; is that true?

25 A Yes.

1 Q Have you seen a copy of the trust instrument?

2 A I have never read a copy.

3 THE COURT: Excuse me. May I just make one
4 inquiry.

5 Were these securities which Woodard-Elwood
6 had in its possession?

7 THE WITNESS: Yes.

8 THE COURT: Securities that had been issued
9 by the respective corporations?

10 THE WITNESS: Yes, by their transfer agents.

11 THE COURT: And in what name were they issued?

12 THE WITNESS: They were issued in the name
13 of Paul L. Halverson, as trustee.

14 THE COURT: That is what the legend was as
15 owner of the certificates?

16 THE WITNESS: That is correct. So in order
17 to transfer them they would have to have his signature
18 and a trust instrument to get them transferred.

19 THE COURT: Has your office advised the
20 corporations involved of litigation with respect to these
21 securities?

22 THE WITNESS: No, sir.

23 THE COURT: So you have no knowledge whether or
24 not the respective corporations have re-issued stock
25 certificates. You have no knowledge with respect to that?

1 THE WITNESS: I have no knowledge, but I can
2 find it out in a hurry. And if we could have caught
3 this about a week after he had picked this up we could
4 have stopped transfer, written and stopped transfer.

5 We can, of course, trace down if the securities
6 have been transferred, through what brokerage house,
7 and whether or not checks have been issued to the person
8 who brought the securities in for transfer.

9 BY MR. DYGERT:

10 Q Will you be willing to do that?

11 MR. DALY: Whose agent were you in this matter?

12 THE WITNESS: I was agent for both Paul L.
13 Halverson, as agent for the trust, and --

14 MR. DALY: You had taken your orders from them;
15 is that right?

16 THE WITNESS: From --

17 MR. DALY: From Halverson and Peterson, did you?

18 THE COURT: Do you have an objection? State
19 it.

20 MR. DALY: I move the Court to grant me
21 permission to ask a question for the purpose of an
22 objection.

23 THE COURT: An objection as to what?

24 MR. DALY: As to any testimony this witness may
25 give with reference to what happened to the stocks.

1 THE COURT: Well, there is no pending question
2 now. The Court merely made some inquiry.

3 What this witness will do or what Woodard-Elwood
4 will do in the future is not before the Court.

5 BY MR. DYGERT:

6 Q Now, will you furnish me with whatever valuations you
7 prepared on these certificates?

8 A Well, this is one as of today.

9 Q And this is a handwritten document in your handwriting?

10 A Yes.

11 Q Showing the valuation of these certificates as of today?

12 A Yes.

13 (Plaintiff's Exhibit B-Hearing
14 marked for identification.)

15 Q And you compute a total amount of \$27, 583.93?

16 A That is correct.

17 Q And what has been marked as Plaintiff's Exhibit B-Hearing
18 is your computation of the details of that?

19 A Yes.

20 MR. DYGERT: We offer in evidence Plaintiff's
21 Exhibit B-Hearing.

22 THE COURT: Received.

23 (Plaintiff's Exhibit B-Hearing
24 received in evidence.)

25 THE COURT: This is the market value as of

January 15, 1965?

THE WITNESS: That is correct.

MR. DYGERT: No further questions.

CROSS-EXAMINATION

BY MR. DALY:

end of V.P.

Q You are connected with Woodard-Elwood Company; is that right?

A That is right.

Q How long have you been connected with these people?

A Approximately 13 years.

Q And in what capacity do you work for them?

A I am a registered representative and a vice-president and director of our company.

Q And Palmer Peterson and Paul Halverson retained you folks to act as stock brokers for them; is that right?

A Yes.

THE COURT: Excuse me. In connection with what?

MR. DALY: In connection with the stocks listed on Exhibit A.

THE COURT: As of what time, Counsel? Do you mean the time of the creation of the trust or before?

MR. DALY: I wouldn't know, Your Honor, but I was --

THE COURT: I am interested in ascertaining as

1 of what time. If your question goes to whether or not
2 Palmer Peterson retained Woodard-Elwood as a broker for
3 his stock transactions insofar as they involved trans-
4 actions other than the trust assets, this would be
5 immaterial.

6 MR. DALY: Right.

7 THE WITNESS: We haven't had any transactions
8 for a number of years so we served only as a safe-keeping
9 function for the agent Paul L. Halverson, as agent for
10 Paul L. Halverson.

11 BY MR. DALY:

12 Q I am only asking with reference to these stocks listed
13 on this sheet I am holding in my hand.

14 A Yes. We have performed a safe-keeping function.

15 Q At all times material you have acted as agent for Paul
16 Halverson; is that right?

17 A Yes, that is correct.

18 Q And you haven't acted as agent for Faye Peterson for
19 any purpose?

20 A That is right.

21 Q Or her attorneys?

22 A That is correct.

23 Q And you recognize you owe your allegiance to Paul
24 Halverson, as his agent; is that right?

25 A That is right.

1 Q And you have never been served with any court orders of
2 any kind with reference to this matter?

3 A Court orders?

4 Q Court orders.

5 A Court orders, you mean -- no. Such as a subpoena I
6 received, yes.

7 Q Other than a subpoena?

8 A No.

9 Q Other than you have testified during the course of this
10 trial previously.

11 A Yes.

12 Q How many times?

13 A Once.

14 Q When was that?

15 A I can't remember. It's been two years ago. Is that
16 right?

17 Q What is your best recollection?

18 MR. DYGERT: That is immaterial. The Court
19 record will show.

20 THE WITNESS: A couple years. I would say a
21 couple years ago.

22 BY MR. DALY:

23 Q And have you ever been served with any garnishment with
24 reference to these stocks?

25 A No.

1 Q Have you ever been served with any injunction with a
2 bond with reference to this stock?

3 A No, sir.

4 Q Have you ever been served with any writ of attachment
5 with reference to these?

6 A No, sir.

7 Q So far as being under the order and directions of any
8 court, you have been left or remained completely free of
9 any restraint?

10 A That is right.

11 Q And you still are free of any restraint?

12 A That is right.

13 Q To and including this minute?

14 A I would say so.

15 Q And you saw no copy of any court order or anything when
16 you turned these over to Paul Halverson, these stocks, or
17 Palmer Peterson?

18 A No, sir.

19 Q And these various corporations listed on this sheet, their
20 addresses are readily attainable in your office, are they
21 not?

22 A Yes, sir.

23 Q This is in there. And many of them have agents in
24 Minnesota here? Well, First Bank Stock --

25 A First Bank has. That is the only one to my knowledge.

1 Q To your knowledge there was never any writ of attachment,
2 injunction or garnishment served on any one of these
3 corporations, isn't that right?

4 A On any one of those corporations?

5 Q On any one of them with reference to this matter, this
6 particular stock in this particular trust?

7 THE COURT: You are being asked merely as of
8 your own knowledge.

9 THE WITNESS: To my knowledge, no.

10 THE COURT: You have no knowledge concerning
11 this?

12 THE WITNESS: No.

13 BY MR. DALY:

14 Q Then their addresses are readily attainable from your
15 office; is that right?

16 A That is correct.

17 MR. DYGERT: That is objected to as immaterial.

18 MR. DALY: It is not so immaterial.

19 That is all.

20 THE COURT: Mr. Haverstock, at the time that
21 Mr. Drexler and Dr. Peterson came to see you on December
22 8, and had conversations with you --

23 THE WITNESS: Yes.

24 THE COURT: Did they advise you they were
25 acting on behalf of Paul Halverson?

1 THE WITNESS: No. They advised me they were
2 acting on a court order that had given them authority to
3 pick up the securities.

4 THE COURT: They said they had authority by
5 virtue of a court order?

6 THE WITNESS: Yes.

7 THE COURT: Did they advise you that Paul
8 Halverson had authorized them to obtain possession of the
9 securities on his behalf?

10 THE WITNESS: No.

11 THE COURT: That is all the Court has. Thank
12 you, Mr. Haverstock.

13 THE WITNESS: Do I get that receipt back? That
14 will be necessary for our records eventually.

15 MR. DYGERT: We will provide you with a copy.

16 BY MR. DALY:

17 Q The substance of their conversation to you, that is Mr.
18 Drexler's and Dr. Peterson's conversation, was that the
19 court had dissolved the trust; isn't that right?

20 THE COURT: You state what they said to you
21 rather than have Mr. Daly state the substance of what
22 they said to you. Mr. Daly was not present, was he?

23 THE WITNESS: No.

24 THE COURT: You state what they said to you.

25 THE WITNESS: They said that they had received

1 authorization from the court to pick up these
2 securities and that they planned to take these securities
3 to Paul L. Halverson to get his signature to put them
4 as part of Dr. Peterson's assets.

5 BY MR. DALY:

6 Q That the trust had been broken?

7 A That the trust had been declared part of Peterson's assets.

8 MR. DALY: That is all.

9 CROSS-EXAMINATION

10 BY MR. FISCH:

11 Q Mr. Woodard, you believed that, did you not?

12 A Yes.

13 Q And for that reason, turned them over to them?

14 A Why, sure. With an attorney present, I presumed -- he
15 gave me his card, and he is an attorney-at-law, so I
16 assumed he is honest.

17 Q That is why you turned it over?

18 A That is correct. And I would again, I think, if an
19 attorney showed up.

20 THE COURT: You would again?

21 THE WITNESS: I think I would under the same
22 circumstances.

23 THE COURT: All right.

24 MR. DYGERT: Thank you, Mr. Haverstock.

25 (Witness excused.)

* * *

STATE OF MINNESOTA

566224

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Faye V. Peterson,

Plaintiff,

REPORTER'S

-VS-

CERTIFICATE

Palmer A. Peterson and
Paul L. Halverson, individually,
and as Trustees,

Defendants.

I, Clarence D. Hall, do hereby certify that

I am one of the official court reporters of the District Court of the Fourth Judicial District of the State of Minnesota; that as such reporter I reported in stenotype the testimony and proceedings had in the above-entitled action; that thereafter I transcribed said proceedings into typewriting; that the foregoing 18 pages constitute a full, true and correct transcript of the proceedings had at said time.

Dated at Minneapolis, Minnesota, this 7th day of March, 1965.

Clarence D. Hall
Clarence D. Hall

1 you not?

2 MR. DYGERT: I am calling Mr. Drexler.

3 If the Court please, I take it that the record
4 now shows the fact that Mr. Drexler may have an adverse
5 interest in here and I may be permitted a certain
6 latitude in cross-examination.

7 THE COURT: Well, you may examine. I will
8 rule as we go along.

9 WILLIAM E. DREXLER
10 being first duly sworn, was examined and testified as
11 follows:

12 CROSS-EXAMINATION

13 BY MR. DYGERT:

14 Q Your name is William E. Drexler?

15 A That is correct.

16 Q You are an attorney admitted to practice in the State
17 of Minnesota?

18 A That is correct.

19 Q Where do you practice?

20 A St. Paul, Minnesota.

21 Q What address?

22 A 372 St. Peter Street.

23 Q Are you a member of any organization with other
24 attorneys at that address?

25 A I associate with other attorneys, yes.

1 Q Who are they?

2 A John J. Flanagan, John K. Scanlan, Aurelio P. Nardi and
3 William J. McGraw.

4 Q Where do you reside?

5 A 1907 Jefferson, St. Paul, Minnesota.

6 Q Are you now or have you in the past represented Defendant
7 Palmer A. Peterson?

8 A Yes.

9 Q Do you now represent him?

10 A Yes.

11 Q And when did your representation of Dr. Peterson start?

12 A I would have to --

13 MR. DALY: I am going to object to this
14 upon the ground it is privileged.

15 I want to make a record here at this point if
16 I may, Your Honor.

17 THE COURT: You may.

18 MR. DALY: Let the record show that M.S.A.
19 595.02 provides, in Subdivision 2, that an attorney
20 cannot, without consent of his client, be examined
21 as to any communication made by the client to him or
22 his advice given thereto in the course of professional
23 duty, nor can any employee of such attorney be examined
24 as to such communication or advice without the client's
25 consent; and upon the ground that even the time in which

1 Dr. Peterson contacted William Drexler for professional
2 advice in the capacity of an attorney is privileged. It
3 involves communication.

4 And upon the further ground that the witness,
5 if it were not for the attorney-client relationship,
6 would not even be here.

7 THE COURT: Well, with respect to the attorney-
8 client privilege, the fact of the attorney-client
9 relationship does not go to conversations or
10 communications between the attorney and the client
11 until there is a relationship, and when it commenced
12 does not violate the privilege statute.

13 MR. DALY: We take the position that it does.

14 THE COURT: I know the position you are taking.
15 But I am not agreeing with you. So I am directing this
16 witness to answer when he became attorney for Palmer
17 Peterson.

18 MR. DALY: Well, now, there is a --

19 THE COURT: Obviously, communications he had
20 between Dr. Peterson and himself before he became
21 attorney would not be privileged, would they?

22 MR. DALY: Before he --

23 THE COURT: Before he became his attorney, would
24 they?

25 MR. DALY: No, they would not.

1 THE COURT: How do you determine whether or
2 not communications between Dr. Drexler and Dr. Peterson
3 are privileged?

4 You determine it only when you know when the
5 attorney relationship came into being.

6 So I am directing you, Mr. Drexler, to
7 answer when you became his attorney.

8 THE WITNESS: I became his attorney when he
9 received a speeding ticket in the Village of Edina,
10 which I would guess would be approximately four or five
11 months ago.

12 THE COURT: All right.

13 BY MR. DYGERT:

14 Q You represented him in connection with that speeding
15 ticket?

16 A Yes.

17 Q Did you represent him at that time in reference to any
18 other matters?

19 A No.

20 Q Was that matter concluded with the hearing on the speeding
21 ticket?

22 THE COURT: Was the attorney-client relationship
23 concluded?

24 THE WITNESS: No.

25 BY MR. DYGERT:

1 Q Did it continue thereafter for some other purpose?

2 A For the same purpose.

3 Q That matter is still pending?

4 A Correct.

5 Q All right. Now, have you represented Dr. Peterson
6 in connection with any other matters other than the
7 matter of the speeding ticket?

8 MR. DALY: Objected to as being immaterial
9 and privileged.

10 THE COURT: Sustained.

11 BY MR. DYGERT:

12 Q Are you attorney for Dr. Peterson in connection with
13 the defense of this particular lawsuit that is now
14 before the Court?

15 MR. DALY: That is objected to as being
16 immaterial and privileged.

17 THE COURT: Well, the question is, are you
18 here in court at the present time as the attorney for
19 Dr. Peterson in connection with this hearing? I think
20 that is what he is inquiring about. Or is Mr. Daly
21 representing Dr. Peterson?

22 MR. DALY: I don't think there is any
23 question I am representing him in connection with this
24 hearing.

25 MR. DYGERT: Lets let the witness testify.

1 THE WITNESS: Would you ask it again, please?
2 I don't understand.

3 THE COURT: Are you representing Dr. Peterson
4 in connection with the hearing?

5 THE WITNESS: No.

6 BY MR. DYGERT:

7 Q Are you representing Dr. Peterson in connection with
8 the defense of this case in other aspects, other than
9 this hearing?

10 MR. DALY: Objected to upon the ground it is
11 privileged.

12 THE COURT: Sustained.

13 That is immaterial, also, because we are
14 dealing with this particular hearing.

15 I think we can save time, Mr. Dygert, if
16 the question goes not to his conversations with Dr.
17 Peterson subsequent to my order of December 4, but what
18 he did with respect to the trust assets and what he
19 did with respect to Mr. Halverson, what he said to him
20 and so forth.

21 BY MR. DYGERT:

22 Q Mr. Drexler, you have been here in this court during
23 the testimony of Mr. Halverson and Mr. Haverstock?

24 A That is correct.

25 Q And you heard some testimony in reference to your

1 activities on December 8, 1964?

2 A That is correct.

3 Q Now, I wish to do you the courtesy of permitting you to
4 tell the Court, in a narrative form, what occurred that
5 day.

6 MR. DALY: I am going to object to any
7 narration here. I think we should proceed in the proper
8 manner.

9 THE COURT: I think before we get into this
10 phase, we will recess.

11 We will recess until 2:00 o'clock this
12 afternoon.

13 (Whereupon the Court recessed at 11:55 o'clock
14 A.M. until 2:00 o'clock P.M. the same day.)

15 AFTERNOON SESSION

16 2:00 o'clock PM

17 THE COURT: Mr. Daly, and Mr. Fisch, Mr.
18 Dygert has informed me he has had scheduled a probate
19 court matter for sometime before this hearing for 3:00
20 o'clock this afternoon, in which he can't continue it.
21 So it would be necessary for us to recess if we haven't
22 completed everything by then at 3:00 o'clock.

23 MR. DALY: I am sure we will have completed it.
24 I don't have any desire to drag it out any further than
25 it has been.

1 THE COURT: All right.

2 WILLIAM E. DREXLER

3 having been previously duly sworn, resumed the stand
4 and testified further as follows:

5 CROSS-EXAMINATION (Continued)

6 BY MR. DYGERT:

7 Q What occurred on December 8th?

8 MR. DALY: I am going to object to that as
9 being too indefinite and vague.

10 MR. DYGERT: I thought as a courtesy to counsel
11 I would ask him a general question, Your Honor, but
12 if the objection is made, we will proceed.

13 BY MR. DYGERT:

14 Q Mr. Drexler, were you present in the courtroom when
15 Mr. Halverson testified?

16 A Today?

17 Q Yes.

18 A Yes, I was.

19 Q And you were also present when Mr. Haverstock testified?

20 A Yes.

21 Q Did you go out to the home of Mr. Halverson at
22 approximately 10:00 or 11:00 o'clock in the morning of
23 December 8, 1964?

24 A No.

25 Q You did not?

- 1 A No.
- 2 Q Did you see Mr. Halverson that morning?
- 3 A No.
- 4 Q You did not see him that morning?
- 5 A Not that morning.
- 6 Q Did you see him on some morning about that time?
- 7 A No.
- 8 Q Did you see him on that day?
- 9 A Yes.
- 10 Q And when was that?
- 11 A Afternoon.
- 12 Q About what time?
- 13 A 12:15, 12:30.
- 14 Q That was the first time you had seen him that day?
- 15 A Yes.
- 16 Q Did you have Dr. Peterson with you?
- 17 A Pardon me?
- 18 Q Did you have Dr. Peterson with you?
- 19 A Yes.
- 20 Q Was there anyone else with you?
- 21 A No.
- 22 Q Where did this meeting occur?
- 23 A At the high school.
- 24 Q And did you have with you a copy of the Court's Findings
- 25 of Fact, Conclusions of Law and Order for Judgment

- 1 dated December 7, 1964? ✓
- 2 A No.
- 3 Q Dated December 4, 1964?
- 4 A No.
- 5 Q Did you have any document with you?
- 6 A My briefcase.
- 7 Q Did you have a document that was related to this case
- 8 with you?
- 9 A A list of the stocks.
- 10 Q Did you have the Court's Amended Findings of Fact,
- 11 Conclusions of Law and Order for Judgment? ✓
- 12 A I didn't, no.
- 13 Q Did Dr. Peterson have it?
- 14 A I don't believe so.
- 15 Q Did you have a conversation with Mr. Halverson?
- 16 A Yes, I did.
- 17 Q Will you state what was said and by whom?
- 18 A Well, when we first got there we met outside and Mr. --
- 19 oh, pardon me. You want at the school?
- 20 Q I want the first meeting.
- 21 A All right. We met at the school at about 12:15, 12:30,
- 22 and talked to Mr. Halverson at that time. He invited
- 23 us into his office and at that time Dr. Peterson said
- 24 that the trust had been broken, dissolved, and that he
- 25 was out there to pick up the Savings book at the

1 Savings and Loan Association. And at that point Mr.
2 Halverson said, "Well, let's get it. I have got it at
3 home. Let's go down to the bank." Which we did.

4 Q Did Dr. Peterson, in your presence, show Mr. Halverson
5 any document?

6 A No.

7 Q And had you at that time seen the Amended Findings of
8 Fact, Conclusions of Law and Order for Judgment dated
9 December 4, 1964?

10 A No, I hadn't. And I don't believe that Dr. Peterson
11 had either because I don't think he received a copy of
12 that until a date later.

13 Q Well, now, if I inform you that the file reflects that
14 he was served with a notice of filing of this
15 particular order on December 7, 1964, your memory might
16 be corrected on that?

17 A I looked in the file and I couldn't find it over the
18 lunch hour, and I don't believe that at that time he had
19 it. This is my own opinion, but I could be wrong.

20 Q Is it your testimony that the fact this order had been
21 issued was completely unknown to you at that point?

22 A Absolutely.

23 Q You didn't know that any Amended Findings of Fact,
24 Conclusions of Law and Order for Judgment had been issued?

25 A I had never seen one. I had been told by Dr. Peterson.

1 Q And where did he get that information?

2 MR. DALY: Objected to as privileged.

3 THE COURT: Sustained.

4 MR. DYGERT: I will withdraw the question.

5 BY MR. DYGERT:

6 Q He knew that this order had been issued, obviously?

7 MR. DALY: Objected to as privileged information.

8 THE COURT: Sustained.

9 MR. DYGERT: All right.

10 THE COURT: Sustained on other grounds.

11 MR. DYGERT: I believe it is argumentative, too,

12 Your Honor.

13 BY MR. DYGERT:

14 Q Mr. Drexler, Defendant Halverson's Exhibit No. 1,
15 introduced this morning, is a notice of filing
16 Findings of Fact, Conclusions of Law and Order for
17 Judgment and Notice of Hearing, which attaches a copy
18 of the referred to Amended Findings of Fact, Conclusions
19 of Law and Order for Judgment. Have you seen a document
20 similar to that?

21 A I saw one this noon here in court. And I don't believe
22 I have ever seen this prior to this day, though.

23 Q And is it your testimony, Mr. Drexler, that prior to
24 today you never seen a copy of the Amended Findings of
25 Fact, Conclusions of Law and Order for Judgment attached

1 to that notice?

2 A I will correct myself. I believe I did see a copy of
3 this in Mr. Daly's office, but I wouldn't know when that
4 was.

5 Q On or prior to December 8?

6 A No. That was quite a bit after December 8. In fact,
7 possibly a week ago.

8 Q Did you make the statement to Mr. Halverson that the
9 trust had been dissolved?

10 A Did I?

11 Q Or words to that effect?

12 A Did I?

13 Q Yes.

14 A No, I didn't.

15 Q Did you make any statement in words or substance to the
16 effect that he should turn over the bank book to Dr.
17 Peterson?

18 A I will tell you what I did say: I asked if he had been
19 served with a garnishment regarding these funds. I asked
20 if he had been served with attachment or I asked if he
21 had been served with a court order; and he told me, no.
22 And then I said, is there any reason you know of you
23 can't turn these funds over to Dr. Peterson. And he
24 said, no, and that he wanted to get out of handling the
25 trust from here on in because it was a big problem to him.

1 Q And if his testimony was to the effect that he relied
2 on your advice as an attorney --

3 MR. DALY: I am going to object to that as
4 asking this witness to compare the testimony of another
5 witness.

6 MR. DYGERT: Let me finish my question.

7 BY MR. DYGERT:

8 Q Any testimony he may have given to the effect that he
9 relied upon your statement is completely erroneous.
10 then, is that your statement to us?

11 MR. DALY: Objected to upon the ground it is
12 argumentative, calling for --

13 THE COURT: Sustained.

14 Rephrase your question.

15 BY MR. DYGERT:

16 Q Did you advise him to turn over the assets to Dr. Peterson?

17 A After asking him these questions, I said that he should
18 turn them over to Dr. Peterson. I asked if they were
19 his stocks, Dr. Peterson, and he said, yes, he had
20 purchased them with Dr. Peterson's money. And I said,
21 well, then, he wants them and you should turn them over
22 to him.

23 Q I take it your testimony is that you had not seen the
24 Court's order whatsoever?

25 A Absolutely not.

1 Q And you were relying strictly on your client's statement
2 to the effect that the trust had been dissolved; is that
3 correct?

4 A That is correct.

5 Q When was that statement made to you?

6 A Approximately 10:00 o'clock that morning.

7 Q Where?

8 MR. DALY: That is objected to as being
9 immaterial.

10 THE COURT: Sustained.

11 BY MR. DYGERT:

12 Q Now, did you thereafter go to the office of Woodard-
13 Elwood?

14 A Yes.

15 Q And what time did that occur?

16 THE COURT: Excuse me. May I interrupt.

17 There was testimony by Mr. Halverson that
18 the Savings and Loan Association, in which the trust
19 monies were deposited, issued a check. Did you advise
20 the Savings and Loan Association in whose name that
21 check should be placed or should be issued?

22 THE WITNESS: Maybe I should tell the Court
23 what happened regarding this matter. The three of us
24 went down to the Savings and Loan Association. There
25 was, I believe, a 15 minute meter out in front of the

1 Savings and Loan Association. So I asked Dr. Peterson
2 and Mr. Halverson and myself, we were going to go in,
3 going to park the car and go in, and Dr. Peterson said,
4 no, that he wasn't going to go in. I said, why not?
5 And he said he didn't want to put the money in the
6 meter and go in. So he was going to sit out in the car
7 and save the nickle or the dime for the parking meter.
8 I said, all right, I will go in with him. We went in,
9 and Mr. Halverson called the girl over and told her that
10 the trust was dissolved and that he wanted a check issued
11 to that. And at that point I asked her if they could
12 issue a money order for this amount or a cashier's
13 check, pardon me, a cashier's check. And she said
14 she couldn't, but we could take their check and go
15 across the street and get a cashier's check.

16 Then she asked, whose name do you want it made
17 out to? And I believe Mr. Halverson turned to me,
18 and I don't remember what the reply was, but I think
19 it was made out to Halverson and Dr. Peterson, but I
20 am not exactly sure on that, how it was made out.

21 My recollection would be that the check was
22 made out jointly to Halverson and to Dr. Peterson.

23 BY MR. DYGERT:

24 Q Did you take the check?

25 A Yes.

1 Q What did you do with it?

2 A I gave it to Dr. Peterson.

3 Q When?

4 A Right at that time after we walked out.

5 THE COURT: Did Mr. Halverson endorse the
6 check in your presence?

7 THE WITNESS: Your Honor, I can't remember
8 whether it was made out to him and Dr. Peterson or
9 not, but if it was made out to him, he did endorse it
10 at that time. I don't remember exactly what transpired
11 at that point.

12 BY MR. DYGERT:

13 Q Did you inform any representative of the Savings and Loan
14 Association that the trust had been dissolved?

15 A No, I didn't.

16 Q You made no statement to that effect or in substance?

17 A No. Mr. Halverson knew the people at the bank and I
18 stood up in front waiting for him. Then he called me
19 over and said, how do you want to make the check out? And
20 I told him I thought we should have a cashier's check
21 if we could get it, and they said -- she said she didn't
22 have it, and I don't remember just exactly what was
23 decided between the two of us as to how to make the check
24 out. But I think the girl said, well, since that is a
25 trust account, we have to make it out to you, Mr.

1 Halverson. That is just my recollection.

2 THE COURT: Do I understand you made no
3 statement to any employee of the Savings and Loan
4 Association regarding the trust or regarding the
5 disposition of the cash deposited in the trust, the
6 cash deposited in the Savings and Loan Association?

7 THE WITNESS: No.

8 BY MR. DYGERT:

9 Q Following your exit from there where did you go?

10 A We went back into the automobile and took Mr. Halverson
11 back to school, I believe, or back to his house, I am
12 not too sure. I think we dropped him off at school.

13 Q Then where did you go?

14 A We came to Minneapolis.

15 Q Where did you go in Minneapolis?

16 A At this point I think I am going to have to inform you
17 my client has asked me to exert his privilege as to
18 any other events that have happened.

19 Q Is it your testimony you went someplace between the
20 time you arrived back in Minneapolis and the time you
21 arrived at Woodard-Elwood?

22 MR. DALY: That is objected to on the ground
23 it is privileged.

24 MR. DYGERT: I am asking what he did.

25 MR. DALY: And immaterial.

1 BY MR. DYGERT:

2 Q Did you do anything in connection with the trust assets
3 other than as attorney for Dr. Peterson, separate and
4 distinct from the attorney-client relationship?

5 A No, I didn't.

6 Q You went somewhere and did something with that check
7 I take it, Mr. Drexler.

8 A At this point I am to inform you my client has informed
9 me that I am to exert his privilege.

10 Q When did he so inform you?

11 MR. DALY: That is objected to as being
12 immaterial.

13 THE COURT: Sustained.

14 BY MR. DYGERT:

15 Q What time did you arrive back in Minneapolis?

16 MR. DALY: Objected to as immaterial.

17 THE COURT: Sustained.

18 BY MR. DYGERT:

19 Q What time did you arrive at Woodard-Elwood?

20 A Approximately 1:00 o'clock.

21 Q What occurred there?

22 A We met the gentleman that was on the stand today. Was
23 that Haverstock?

24 Q Haverstock.

25 A Haverstock. And Dr. Peterson informed Mr. Haverstock

1 that the trust had been dissolved and that we had come
2 there to pick up the securities that he was holding.

3 Q What did you say to Haverstock?

4 A Well, Haverstock and I talked about fishing and duck
5 hunting.

6 Q What did you say in reference to whether the trust
7 had been dissolved?

8 THE COURT: What did you say to Haverstock
9 about the trust or trust assets?

10 THE WITNESS: I asked Haverstock whether he
11 had been served with a garnishment, and I asked if he
12 had been served with a writ of attachment, and I believe
13 I asked him if he had been served with any order holding
14 the stocks, and if he had any court order requiring him
15 to keep the stocks and bonds, apparently, in his
16 possession. He said, no. I believe I then told him
17 that Dr. Peterson wants these, and that if, as Dr.
18 Peterson said, he is the one that paid for them, I think
19 he is entitled to them.

20 And he said he was going to get a receipt,
21 type up a receipt, and he would give them to us, and
22 he was going to go to lunch. It was 1:00 o'clock or
23 a little after.

24 BY MR. DYGERT:

25 Q Did you tell Mr. Haverstock, in words or in substance,

1 that since there had been no garnishment, no attachment,
2 no court order, that he should turn these securities over
3 to Dr. Peterson?

4 A In substance, I told him that was there any reason that he
5 was holding them, and had he been served with any of
6 these papers, and were they really Dr. Peterson's stocks
7 and bonds, and that Dr. Peterson wants them. And he said
8 he would get them. Dr. Peterson, at this time, was
9 sitting there talking with him quite a bit more than I
10 was.

11 Q In substance, did you tell him that based on inquiry
12 you had made you were of the opinion that Dr. Peterson
13 was entitled to them?

14 A I don't think we got that far. We just inquired about it,
15 and then Dr. Peterson said, can I get them; and will you
16 get them for him?

17 THE COURT: Did you tell Mr. Haverstock that
18 in view of the fact that there was no attachment or
19 garnishment, he should turn them over to Dr. Peterson
20 because Dr. Peterson wanted them? Is that what you told
21 him in substance?

22 THE WITNESS: No. We didn't get that far, Your
23 Honor. I told him that Dr. Peterson wanted them, and
24 Dr. Peterson did most of the talking as far as that goes,
25 and I just sat on the side.

1 THE COURT: Did Mr. Haverstock ask you
2 whether you were of the opinion that he should turn
3 them over to Dr. Peterson?

4 THE WITNESS: No, he didn't ask me that.

5 BY MR. DYGERT:

6 Q Did you discuss with Mr. Haverstock the Court order
7 which was part of the Amended Findings of Fact, Conclusions
8 of Law and Order for Judgment dated December 4, 1964?

9 A I did not, no.

10 Q You didn't mention it to him at all?

11 A I did not, no.

12 Q But Dr. Peterson did?

13 MR. DALY: I am going to object to this as
14 being privileged.

15 MR. DYGERT: This is not --

16 THE COURT: As to what Dr. Peterson said to
17 a third person?

18 MR. DALY: He was asking what Dr. Peterson
19 said. And this witness is incapacitated from testifying
20 to anything that Dr. Peterson said.

21 THE COURT: To third persons?

22 MR. DALY: To anybody. He can't testify as
23 to any conversation that Dr. Peterson related to anybody
24 that has come within his knowledge.
25

THE COURT: I will sustain the objection on

1 other grounds.

2 MR. MORRIS: He can still testify what he
3 heard, though.

4 MR. DALY: Not with reference to anything he
5 heard Dr. Peterson say.

6 THE COURT: Objection will be sustained.

7 You appreciate the fact, gentlemen, that
8 this Court at this juncture is not concerned with
9 the liability of Mr. Drexler as an attorney or his account-
10 ability as an attorney or as an officer of this court
11 with respect to frustrating the orders of this Court.
12 That matter will have to be explored before some other
13 tribunal and before some other agency, if it is to be
14 explored at all, or before the Supreme Court.

15 BY MR. DYGERT:

16 Q Mr. Drexler, who took physical possession of these
17 stock certificates?

18 A Dr. Peterson.

19 Q Did you have them in your possession at that time?

20 A At which time?

21 Q At Woodard-Elwood?

22 A No.

23 THE COURT: Did you have possession of the
24 stock certificates at any time subsequent to their
25 release by Woodard-Elwood?

1 MR. DALY: That is objected to as privileged
2 and immaterial.

3 THE COURT: Overruled.

4 THE WITNESS: I didn't have sole possession
5 of them at any time, probably with Dr. Peterson, either
6 he was carrying them or I was carrying them, but as far
7 as being with them alone --

8 THE COURT: Were they turned over to you by
9 Woodard-Elwood, to you personally?

10 THE WITNESS: No.

11 THE COURT: Did you have physical possession
12 of them?

13 THE WITNESS: No, I didn't. They were given
14 to Dr. Peterson and he signed the receipt for them.

15 BY MR. DYGERT:

16 Q Where did you go when you left Woodard-Elwood?

17 MR. DALY: Objected to as immaterial and
18 privileged?

19 THE COURT: Overruled insofar as it relates
20 to matters in which Mr. Halverson were involved.

21 Rephrase your question in terms of contact
22 with Mr. Halverson.

23 BY MR. DYGERT:

24 Q Did you go immediately from Woodard-Elwood back to
25 Stillwater to see Mr. Halverson?

1 A Not immediately.

2 Q Other than stopping for lunch, did you make any stops in
3 the meantime?

4 MR. DALY: I am going to object to this as
5 being immaterial and privileged.

6 THE COURT: Sustained.

7 MR. DALY: I am willing to let the witness --

8 THE COURT: I sustained your objection.

9 MR. DALY: Ask him when he next saw Halverson.

10 MR. DYGERT: I will conduct the examination
11 as I see fit, counsel.

12 BY MR. DYGERT:

13 Q At Woodard-Elwood did you have any written authorization
14 of any kind from Paul Halverson for the release of
15 these securities?

16 A Did I? No.

17 Q Did Dr. Peterson?

18 A I don't know.

19 Q You don't know of any?

20 A I don't know of any.

21 THE COURT: What was that last question?

22 (Whereupon the question beginning on Line 13
23 was read by the Reporter.)

24 BY MR. DYGERT:

25 Q Prior to the time Dr. Peterson picked up these certificates

1 at Woodard-Elwood, to your knowledge had Halverson in any
2 way authorized Woodard-Elwood to release them to him?

3 A To my knowledge?

4 Q Yes.

5 A No.

6 Q Eventually, sometime that day, you got back to Halverson?

7 A That is correct.

8 Q What time was that?

9 A It was after school let out, and I am not sure whether
10 it was 3:00 or 3:30.

11 Q Where did you meet him?

12 A At his home.

13 Q Outside his home, as he mentioned?

14 A Yes.

15 Q What occurred there?

16 A He informed us that he was just going to pick up his
17 wife, who is Dr. Peterson's sister, who had just
18 finished teaching school at another school and that he
19 was just moving his car out of the garage, or moving his
20 car so he could drive to pick her up. And Dr. Peterson
21 said that he needed the certificates signed on the back,
22 and that he would go pick up his sister, or Halverson's
23 wife, and if he would stay here and sign the certificates.

24 Q Did you have some conversation with Mr. Halverson about
25 signing these certificates outside the house there?

1 A Outside of the house?

2 Q Yes.

3 A Other than the fact that I told him that they had to
4 be signed. By that I mean --

5 Q Had you at that time seen the Court order?

6 A No.

7 Q And you had not seen the copy of the Court order
8 attached to our notice of filing?

9 A I hadn't seen it, no.

10 Q And you were relying in your statement to Mr. Halverson
11 solely on what Dr. Peterson had told you?

12 A In what statement?

13 Q In your statement that he should sign the certificates?

14 MR. DALY: That is objected to as being
15 immaterial.

16 THE COURT: Overruled.

17 THE WITNESS: No. I believe what we did, we
18 just asked him to sign the backs of the certificates and --

19 BY MR. DYGERT:

20 Q These certificates were made out to Paul Halverson, as
21 trustee, were they not?

22 MR. DALY: May I inquire of the Court as to
23 the purpose of this hearing here today? As I understand,
24 it is to determine the nature and extent of the trust
25 assets.

1 THE COURT: And their location. How they
2 happened to get out of the hands of the trustee.

3 MR. RORRIS: We still don't know where they
4 are. We are still trying.

5 MR. DALY: Well, I am going to continue
6 objecting to any questions that don't go right directly
7 to the point.

8 This man isn't on trial for any purpose.

9 MR. RORRIS: I would say he is, Your Honor.
10 He lent authority, I might say, to these two inter-
11 ventions.

12 THE COURT: The particular matter before
13 the Court now is not whether Mr. Drexler, as an officer
14 of this court, frustrated the order of this court by going
15 with Dr. Peterson to the Savings and Loan Association
16 and to the stock brokerage company.

17 That is not before the Court at this time.

18 MR. DALY: Dr. Peterson has a constitutional
19 right to take a lawyer with him.

20 THE COURT: I say, Mr. Drexler, if he is to
21 account for his actions as an officer of the court, as
22 a member of the Bar of this State, will have to account,
23 if he has to account, ultimately to the Supreme Court
24 of Minnesota. And if he frustrated the order of this
25 court knowingly --

1 MR. DALY: There is no court order in
2 existence with reference to tying them up.

3 THE COURT: What there was, Mr. Daly, you and
4 I disagree about.

5 MR. DALY: I know.

6 THE COURT: But the point is, I am not
7 concerned about the accountability at this point as an
8 officer of the court and as a member of the Bar of this
9 State. I am not concerned with the accountability of
10 Mr. Drexler at this time. So those questions are not
11 really germane.

12 MR. DALY: The point I am raising is these
13 Findings of Fact, Conclusions of Law and Order for
14 Judgment do not restrain the disposition of these trust
15 assets, so any reference to them is immaterial.

16 THE COURT: Well, Mr. Daly, that is your view.

17 MR. DALY: Well, it is a fact. Where in these
18 orders does it show any restraining order?

19 THE COURT: There was no restraining order,
20 that is true.

21 But do I understand, Mr. Daly, that your
22 position as the attorney for the defendant Palmer Peterson
23 is that the Court having concluded that the trust should
24 be set aside and the Court having determined that it
25 would decide what distribution should be made of the trust

1 assets, that Dr. Peterson was free to take the trust
2 assets from the trustee?

3 MR. DALY: Free agent, absolutely.

4 THE COURT: Well, Mr. Daly, then you and I do
5 disagree. There is no point in belaboring the matter.

6 MR. DALY: In this country --

7 THE COURT: I don't want to hear anything
8 further from you in that regard, Mr. Daly, because
9 you and I disagree, and you obviously do not understand
10 the order of this Court and never will understand the
11 order of this Court.

12 MR. DALY: Well, now, Your Honor, I object
13 to and resent any remarks -- I am well able to read and
14 I understand an order of a court when I see one, and
15 I understand from reading when there is no order --

16 THE COURT: What did you understand by my
17 finding that the trust should be set aside and that
18 I would make an order of distribution? What did you
19 understand by that?

20 MR. DALY: Just exactly what that says, that
21 it is set aside and you make an order of distribution.

22 THE COURT: Yes. Well, there is no point
23 in going into the matter, Mr. Daly.

24 BY MR. DYGERT:

25 Q Mr. Drexler, following this conversation outside the

1 house, you and Mr. Halverson went inside and Mr. Halverson
2 then endorsed the certificates; is that correct?

3 A That is correct.

4 Q And then turned them over to you?

5 A No, he didn't.

6 Q Did he endorse them in your presence?

7 A Yes, he did.

8 Q Now, did you witness his endorsement?

9 A By writing on it?

10 Q By writing on these certificates?

11 A I don't believe so.

12 Q Did you secure any bank guarantee or any stock broker
13 to guarantee this signature?

14 A I think at this time I would have to exert the attorney-
15 client privilege again.

16 Q Is this something your client has also instructed you
17 to do?

18 A Yes, he has.

19 MR. DALY: I have instructed him to do it
20 as a representative of Palmer Peterson, also.

21 BY MR. DYGERT:

22 Q Now, as you left the home after having Mr. Halverson
23 sign these documents, who had them at that point?

24 A Mr. Halverson.

25 Q And to whom were they handed over?

- 1 A To Dr. Peterson.
- 2 Q When and where?
- 3 A About five minutes later at the school where Mrs. Halverson
- 4 teaches.
- 5 Q And were you present?
- 6 A Yes, I was.
- 7 Q And had you been with Mr. Halverson during all that
- 8 period of time?
- 9 A All that period of time was just the amount of time
- 10 it took him to write his name of the back of them.
- 11 Q But you had gone, then, with Mr. Halverson to the school?
- 12 A Yes.
- 13 Q And gave the certificates to Dr. Peterson?
- 14 A I didn't, no.
- 15 Q But he did?
- 16 A Yes; as I remember he did.
- 17 Q Now, as you remember it, they did not bear your signature
- 18 as a witness?
- 19 A Pardon me?
- 20 Q Your recollection is that they did not bear your signature
- 21 as a witness?
- 22 A That is my recollection, yes.
- 23 Q They did not bear any guarantee by any bank or stock
- 24 broker as to the authenticity of Mr. Halverson's signature?
- 25 A At that point, yes.

1 Q So that if any such was supplied, it was supplied in
2 Mr. Halverson's absence at a later time?

3 A That I don't know.

4 Q Now, have you handled these stock certificates since
5 that point of time that they were turned over to Dr.
6 Peterson?

7 MR. DALY: Objected to as privileged and
8 immaterial.

9 BY MR. DYGERT:

10 Q Other than as the attorney for Palmer Peterson?

11 A No, I have not.

12 Q Other than in connection with any communication you
13 may have received from Dr. Peterson?

14 A No, I have not.

15 Q I take it, you may have handled them as attorney for
16 Dr. Peterson?

17 MR. DALY: Objected to as immaterial and
18 calling for privileged information.

19 THE COURT: Sustained.

20 BY MR. DYGERT:

21 Q Where are they now?

22 MR. DALY: Objected to as calling for
23 privileged information.

24 THE COURT: Do you know where the stock
25 certificates are now, apart from any information that

1 you may have received from Dr. Peterson?

2 THE WITNESS: From Dr. Peterson?

3 MR. DALY: Apart from that.

4 THE COURT: Apart from any information, do
5 you know where the stock certificates are, as of your
6 own observation and your own knowledge?

7 MR. DALY: Of your own knowledge, apart
8 from any information you have received from Dr. Peterson
9 by any way, shape or form?

10 THE WITNESS: No.

11 BY MR. DYGERT:

12 Q You don't know where they are?

13 A Not apart from any information that I received from Dr.
14 Peterson.

15 Q Let me ask you this: Do you or someone in your office
16 have physical custody of these stock certificates at
17 this point of time?

18 A Absolutely not.

19 Q Have you had since December 8?

20 A No.

21 MR. DALY: Objected to as calling for
22 privileged information.

23 MR. DYGERT: Well, he has already answered.

24 BY MR. DYGERT:

25 Q Not in any way?

1 MR. DALY: Objected to as calling for
2 privileged information.

3 THE COURT: Sustained.

4 MR. DYGERT: I have no further questions.

5 MR. FISCH: No questions.

6 REDIRECT EXAMINATION

7 BY MR. DALY:

8 Q Mr. Drexler, you were acting as agent and attorney for
9 Dr. Palmer Peterson at all times in these transactions?

10 A That is correct.

11 Q Now, how long have you been a practicing lawyer?

12 A Since October 13, 1961.

13 Q And you have handled divorce cases, have you, from time
14 to time?

15 A Yes, I have.

16 Q And you have handled matters in collecting from time
17 to time?

18 A Yes, I have.

19 Q And you are aware of the fact that there was no garnishment
20 served in this case, in this matter, and no writ of
21 attachment and no injunction; is that right?

22 A That is what the parties tell me, yes.

23 Q Now, what is your opinion with reference to the value
24 of the services rendered by these attorneys for the
25 plaintiff to the plaintiff in this case?

1 THE COURT: Objection will be sustained, as
2 there is no foundation for this.

3 MR. DALY: There is no objection, Your Honor.

4 THE COURT: I am making the objection.

5 MR. DALY: Let the record note an exception
6 to the Court making an objection in this case.

7 THE COURT: The Court will disregard any
8 testimony that may be elicited from this witness concerning
9 his opinion concerning the reasonable value of the
10 services rendered by the attorneys for the plaintiff.

11 MR. DALY: As I understand it, Your Honor,
12 they are making claim for attorneys' fees which they
13 rendered here today against Faye Peterson; is that
14 right?

15 THE COURT: And, in fact, this testimony is
16 beyond the scope of the examination made by the attorney
17 for the plaintiff.

18 MR. DALY: Your Honor, I am objecting that the
19 Court --

20 THE COURT: Mr. Daly, let me advise you that
21 the Court is not a mere umpire in a ball game. The Court
22 is here to see to it that justice is done. And the
23 Court, on its own motion, is making the objection to
24 this testimony, which the Court has the inherent power
25 to do.

1 MR. DALY: No, Your Honor. You have no
2 right to make an objection to any testimony.

3 THE COURT: Mr. Daly, I am telling you that
4 I have that power, and I have the power to not listen
5 to any evidence which I regard as inadmissible, and to
6 disregard any evidence which I regard as inadmissible.

7 MR. DALY: I believe that is all.

8 Just one further question.

9 BY MR. DALY:

10 Q It came to your knowledge through questioning that
11 there was no garnishment served in this case; is that
12 right?

13 A That is right.

14 Q And it came to your knowledge through questioning that
15 there was no writ of attachment; is that right?

16 A That is right.

17 MR. DYGERT: Objected to as completely
18 immaterial. I have made an objection as to what his
19 knowledge was through, I take it, through the questioning
20 in this case today as to whether there was any attachment
21 or garnishment.

22 THE COURT: Are you talking about questioning
23 of his client?

24 MR. DYGERT: If this relates to the questioning
25 of his client, then I have no objection.

1 BY MR. DALY:

2 Q From questioning these various people, Haverstock and
3 Halverson, you ascertained there were no garnishments
4 served; is that right?

5 A That is right.

6 MR. FISCH: I will object because it is
7 repetitious and has already been answered.

8 THE COURT: He can answer.

9 BY MR. ~~DYERT~~? DALY:

10 Q You understand that through legal process personal
11 action has a right to be controlled, do you not?

12 MR. DYERT: Objected to as calling for a
13 conclusion.

14 THE COURT: Sustained as immaterial.

15 MR. DALY: All right. That is all.

16 RECROSS-EXAMINATION

17 BY MR. DYERT:

18 Q Do you presently represent Dr. Peterson?

19 A Yes, I do.

20 Q You are aware he has been ordered to appear before this
21 Court?

22 A Yes, I have been made aware of that.

23 Q You are aware the Court has issued a bench warrant for
24 his appearance?

25 A I have been told that, yes.

1 Q Do you know where he is presently?

2 MR. DALY: Objected to as privileged information.

3 THE COURT: Sustained.

4 MR. DYCERT: As to this man's knowledge of where
5 he is? I haven't asked where he is. I asked whether
6 he knows.

7 THE COURT: Objection will be sustained.

8 BY MR. DYCERT:

9 Q Did you inform your client a bench warrant was outstanding
10 for him?

11 MR. DALY: Objected to as privileged information.

12 THE COURT: Sustained.

13 MR. DYCERT: Nothing further.

14 MR. DALY: That is all.

15 (Witness excused.)

16 * * *

17 February 12, 1965

18 I hereby certify that the foregoing is a true and
19 correct transcript of the proceedings had transcribed by
20 me in the above-entitled matter.


21

22

23

24

25


Clarence D. Hall
Official Court Reporter

1 MR. DYGERT: Now, if the Court please, that
2 I believe is all that we are able to offer as to the
3 nature, location and amount of the trust assets.

4 We would like to go forward with our showing
5 as to attorney's fees and that matter, unless on this
6 phase of the case the defendant has something to offer.

7 THE COURT: I think we will take it in two
8 phases.

9 MR. DALY: I can save a lot of time. I have
10 nothing to offer or intend to offer.

11 THE COURT: Now, with respect to the matter of
12 attorney's fees. Will you be able to conclude by the
13 time --

14 MR. DYGERT: I think I can make a rather
15 quick statement to the Court on that, Your Honor, and
16 I believe it will be sufficient.

17 I would prefer to go ahead on it.

18 THE COURT: All right.

19 MR. DYGERT: Does the Court wish to have me
20 sworn?

21 MR. DALY: I certainly do.

22 THE COURT: I think frankly, Mr. Dygert, that
23 your testimony, plus possible cross-examination --

24 I take it there will be cross-examination?

25 MR. DALY: Not a lot, Your Honor.

1 THE COURT: Well, let's go ahead then.

2 ROBERT W. DYGERT

3 being first duly sworn, was examined and testified as
4 follows:

5 DIRECT EXAMINATION

6 THE WITNESS: If the Court please, I am an
7 attorney licensed to practice in the State of Minnesota.

8 MR. DALY: I move the witness take the stand.

9 THE COURT: I think this is going to take
10 the aspects of a formal hearing so I think we ought to
11 continue this.

12 MR. DALY: Continue it for another day?

13 THE COURT: When would it be convenient for
14 counsel?

15 MR. DALY: I have to be in Hastings in a trial
16 set down for a definite date, a day certain tomorrow
17 morning.

18 THE COURT: When would you conclude that?

19 MR. DALY: I can't say for sure. It would take
20 the day. Friday I have got a special term matter down
21 there. Friday is the special term day.

22 THE COURT: Off the record.

23 (Off-the-record discussion.)

24 THE COURT: Let's continue this matter until
25 Monday at 10:00 o'clock. Is an hour enough time?

1 MR. DYGERT: Certainly.

2 If the Court please, Mrs. Peterson is here
3 for the purpose of showing some of her presently acute
4 need for funds. And I will just state to the Court, I
5 don't think --

6 MR. DALY: This Court, I don't think, has
7 any jurisdiction.

8 MR. DYGERT: This relates to the matter of
9 the distribution of the trust.

10 THE COURT: I would say between now and
11 Monday I would be glad to receive a letter statement
12 as to what kind of supplemental findings, order, I
13 should make with respect to the trust assets, bearing
14 in mind that -- well, as to how they should be secured,
15 and what distribution should be made of them, if and when
16 they are ascertained.

17 MR. DALY: Our position is short. We claim
18 Dr. Peterson should have them all.

19 THE COURT: I appreciate that, Mr. Daly. I
20 anticipated that statement. But I am giving Mr. Dygert
21 an opportunity to be heard.

22 MR. DALY: I want to make a brief statement
23 for the record with reference to this point about
24 controlling personal actions.
25

4

1 This is fundamental law. All power exercised
2 over the nation and individuals in the nation must have
3 some beginning. It must be delegated to the government
4 by the constitution, express or implied, or it is assumed
5 there are no other sources. All delegated powers of
6 trust are all assumed powers. Time does not alter
7 the nature or quality of either.

8 Now, we take the position that this Court
9 cannot exercise any restraint over the personal actions
10 of any individual unless it is done by lawful authority.

11 No. 1, this Court, to have jurisdiction, it
12 has got to be done by written order. It has got to be
13 done pursuant to law.

14 That is the position we have taken in this case.
15 There is nothing, there is no order in the file ever
16 served on Halverson or Peterson restraining the disposition
17 of these trust assets.

18 THE COURT: Do I understand that Dr. Peterson
19 recognized my finding and agreed with my finding that
20 the trust was fraudulent? Is that what you are telling me,
21 Mr. Daly, and that pursuant to that he then obtained
22 possession of the trust assets because he agreed with my
23 finding?

24 MR. DALY: At this time I think that you can
25 rely upon this, that Dr. Peterson is agreeing to nothing.

1 THE COURT: Well, then, Mr. Daly, you can't
2 have your cake and eat it, too.

3 The only basis on which he could claim those
4 trust assets would be that he agreed with my finding.
5 Isn't that true? If he didn't agree with my finding,
6 then those trust assets had to remain in the hands of
7 the trustee and he had no right to obtain possession of
8 them. That is clear.

9 MR. DALY: If we are going to proceed upon
10 reason, I would have to agree with that, Your Honor,
11 that is right.

12 THE COURT: So I think it is clear, Mr. Daly,
13 that Dr. Peterson had no authority from this Court or
14 from anybody else to obtain possession of those trust
15 assets until and unless the Court made an order to Mr.
16 Halverson, the trustee. This was an irrevocable trust.

17 MR. DALY: Yes. But they are out there as free
18 agents to do as they please unless restrained by some
19 order. They were not restrained. If they are not
20 restrained they are free to do as they please. The only
21 one that could come in and complain would be some
22 beneficiary to this trust.

23 MR. RORRIS: I don't think Mr. Daly heard the
24 testimony.

25 MR. DALY: Mrs. Peterson is not a beneficiary to

The REVIEW of the NEWS

42174

July 16, 1969 — Volume V, No. 29

Easing the Desegregation Deadline

■ *Washington, July 3* — Attorney General John N. Mitchell and Secretary Robert H. Finch of the Department of Health, Education and Welfare issue a policy statement easing the September, 1969, desegregation deadline for about 700 Southern school



Mitchell stresses
commitment to
desegregation.

districts. While declaring that "this Administration is unequivocally committed to the goal of finally ending racial discrimination in schools, steadily and speedily, in accordance with the law of the land," the statement goes on to say that "the new procedures set forth are designed to achieve that goal in a way that will improve, rather than disrupt, the education of the children concerned." The most recent "guidelines" — or administrative regulations — promulgated by HEW in January of 1968 threatened

loss of Federal funds for any district that failed to desegregate by next September. In today's statement, however, Mitchell and Finch declare that "it is not our purpose here to lay down a single arbitrary date by which the desegregation process should be completed in all districts, or to lay down a single arbitrary system by which it should be achieved." Instead, they say that desegregation plans must provide for full compliance during the "1969-70 school year. In some districts, there may be sound reasons for some limited delay. In considering whether and how much additional time is justified, we will take into account only bona fide educational and administrative problems. Examples of such problems would be serious shortages of necessary physical facilities, financial resources, or faculty. Additional time will be allowed only where those requesting it sustain the heavy factual burden of proving that compliance with the 1969-70 time schedule cannot be achieved; where additional time is allowed, it will be the minimum shown to be necessary."

July 16, 1969

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(Senator Strom Thurmond, the South Carolina Republican who has opposed the "guidelines," comments that the new policy is "an improvement... but it does not go as far toward a true freedom of choice plan as I would like." NAACP Executive Director Roy Wilkins, on the other hand, tells those attending a convention in Jackson, Miss., that the new policy is "almost enough to make you vomit. This is not a matter of too little too late; rather this is nothing at all.")

■ *Key Biscayne, Fla., July 5* — White House Press Secretary Ronald Ziegler defends the Administration's new school desegregation policy. "We feel we will be judged on what we do," says Ziegler. "Of course, there will be some who will never be satisfied... which is part of our political system. But the majority of the American people as a whole, we feel confident, will judge the Administration on its performance." He declares that the President is in accord with the decision, although he adds that "there is never full unanimity on anything."

■ *Washington, July 7* — Officials of the Nixon Administration order Federal funds cut off to three Southern school districts and file two desegregation suits against one district in the North and one in the South. The suits, announced by Attorney General Mitchell, make a total of nine such actions in the new Administration's first six months. They are directed at Madison County School District No. 12 in Illinois and at Barnwell County School District No. 45 in South Caro-

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The Review of the NEWS

lina. The suspension of funds, announced by HEW Secretary Finch, affects Wayne County, Ga.; Flagler County, Fla.; and Orangeburg County School District No. 4, S.C. These three cutoffs make a total of 11 ordered by Finch since January. He says, however, that "we shall continue to keep the door of communication open with these districts and hope to provide all assistance necessary to bring them into compliance with the law."

Financing Communist Activities

■ *Washington, July 7* — FBI Director J. Edgar Hoover told the House Appropriations Subcommittee last April 17 that the "New Left" movement was "a firmly established subversive force dedicated to the complete destruction of our traditional democratic



Hoover describes
financing of
the "New Left."

values and the principles of free government." He said that it represented "the militant, nihilistic, and anarchistic forces which have become entrenched, for the most part, on college campuses and which threaten the orderly process of education as the forerunner of a more determined effort to destroy our economic, social, and political structures." In testimony released today, Hoover singles out the Students for a Democratic Society as "a Communist-anarchist group" which

is "at the core of the 'New Left' movement," which represents "a threat to established law and order and to the stability of our society," and which has exhibited "a steadily increasing degree of hard-core Communist influence." He also gives a rundown of the many wealthy benefactors who are bankrolling a substantial portion of "New Left" activities. Without naming names, the FBI chief says that the contributors include: "A Cleveland industrialist who has long been a Soviet apologist; the wife of an attorney in Chicago who is a millionaire; an heiress in the New England area who is married to an individual prominent in the academic community who has been active in 'New Left' activities; a wealthy New York lecturer and writer who for years has been linked to more than a score of Communist-front organizations and who has contributed liberally to many of them. These individuals alone have contributed more than \$100,000 in support of 'New Left' activities." The "New Left" has also received money from several foundations, says Hoover "including a very prominent foundation in New York," which gave more than a quarter of a million dollars from 1961 to 1968. He notes that most of the recipients "have been identified as either present or past members or sympathizers of the Communist Party, U.S.A., or 'New Left' movement." He estimates that nearly 60 per cent of SDS funds come from contributions and much of the nationwide travel by prominent SDS leaders

is paid for by honorariums paid to them, "generally out of student funds, for their guest appearances on college campuses."

Paying People Not to Farm

■ *Washington, July 7* — The Senate kills (53 to 34) a proposed ceiling of \$20,000 on Federal farm payments to any one farmer. The same proposal was knocked out by the Senate on a 47-to-25 vote last year. Senator John J. Williams (R.-Del.), who has led the fight to impose a limit on payments, declared that he did not know "how any members of the Senate can justify paying so-called farmers not to farm." Stressing that a payment limitation would save \$35 million a year, he cited five instances of five farms getting more than \$1 million not to produce crops and 13 other payments of more than \$500,000 each. One \$600,000 payment went to a Mississippi plantation, owned by British interests, for not planting cotton, Williams pointed out.

The Arms Talks Delegation

■ *Key Biscayne, Fla., July 5* — White House Press Secretary Ronald Ziegler announces that President Nixon has chosen the delegates he will send to the talks expected to begin in a few weeks with the Soviet Union on the limitation of nuclear arms. Gerard C. Smith, director of the U.S. Arms Control and Disarmament Agency, has been selected to head the delegation, says Ziegler. The other members will be Philip J. Farley, Deputy Assistant

Secretary of State for Political-Military Affairs; former Deputy Secretary of Defense Paul Nitze; former Secretary of the Air Force Harold Brown; former Ambassador to the Soviet Union Llewellyn E. Thompson; and Major General Royal B. Allison, USAF, deputy chairman of the Joint Chiefs of Staff special studies group.

Increased Trade with the Enemy

■ *Washington, July 2* — Secretary of State William P. Rogers says that President Nixon will discuss increased trade with Rumanian Communist leaders when he visits Bucharest early next month. At a news conference, Rogers stresses that the Administration's policy regarding trade with Communist countries is "sensibly to liberalize it."



Rogers would liberalize trade with the Reds.

He describes as untrue suggestions that the Administration is not seeking liberalized trade with Red nations because it recently urged extension of the Export Control Act of 1949 — a measure which limits U.S. trade with the Soviet Union and its satellites. "We think that the present law does permit considerable liberalization of trade," Rogers declares, "and, if we find that in our discussions with Eastern European countries that it is in the best interests of the United States to increase trade, then we can ask for

legislation that would give them most-favored-nation treatment."

An Astronaut Out of His Orbit

■ *Leningrad, July 3* — American astronaut Frank Borman predicts that the time will come when American and Soviet spacemen will work together in an orbiting space laboratory. Borman, the first astronaut to visit the Soviet Union, tells newsmen that "we are working now in America on a space station program where we hope to launch in the mid-70's a very large experimental laboratory. I foresee in that program the time when Soviet and American engineers and astronauts will be flying together." Borman also praises the Soviet Union's alleged space program as "a great one" and declares that "everything that has been done has been done well. I must say we are all following the lead of the first space flights carried out by the Soviets."

■ *Moscow, July 5* — Astronaut Frank Borman, on the fourth day of his good will visit to the Soviet Union, places wreaths on the tombs of Lenin and Yuri Gagarin, whom the Reds claim was the first man in space. Gagarin was killed in a plane crash last year. At Lenin's tomb in Red Square, Borman places a wreath with the inscription: "To V.I. Lenin, the founder of the Soviet state, from U.S. astronaut Frank Borman." Asked if the unusual gesture of placing the wreaths was part of his stated mission to promote greater U.S.-Soviet understanding, the Air Force colonel replies: "This is a semi-

official visit. It is difficult for a person who has flown in space to be just an ordinary tourist. We have placed wreaths at the Tomb of the Unknown Soldier and national monuments in every country we've been in."

The End of a Rocky Mission

■ *Santo Domingo, July 2* — Governor Nelson Rockefeller of New York arrives in the Dominican Republic — the 17th nation he has visited on his Latin American fact-finding tour for President Nixon — and is met by thousands of troops but few residents. "I bring no new programs, no simple answers, no easy slogans," Rockefeller says in remarks at the airport. "New U.S. policies may grow out of this mission, but they do not arrive with it." He



Rockefeller confers with President Duvalier. says that "one cannot help but be impressed by the obvious and vigorous will of the Dominican people to win for themselves social justice and economic opportunities under the banner of liberty." Earlier today, the governor received the warmest welcome of his mission in Port-au-Prince, where 100,000 Haitians greeted him. "I do not propose new programs, new solutions, nor new easy slogans," Rocke-

feller said at a dinner in his honor. "I come with my 30 years of interest and affection for the Caribbean and Latin American people. I want you to talk freely to me as a real friend and a lover of human freedom." During his visit, the governor also conferred with President Francois Duvalier and other Haitian leaders.

■ *Santo Domingo, July 3* — Governor Rockefeller winds up a 24-hour visit here by conferring with President Joaquin Balaguer and his aides. Shortly before the conferences, four persons were killed and one was wounded in two shooting incidents which the Government attributed to nervous and inexperienced security guards. Balaguer, following his meeting with Rockefeller, says that the vast majority of the Dominican people are happy to have the governor, whom he describes as an illustrious citizen, a liberal, and a true friend of Latin America, visit their country.

■ *Georgetown, July 4* — Nelson Rockefeller arrives in Guyana and is greeted by 50,000 people. At the airport, Prime Minister Forbes Burnham congratulates the governor on the occasion of the 193rd anniversary of American independence and says that Guyana will welcome further American financial assistance as long as it does not affect Guyana's sovereignty. (Since it achieved independence from Britain in 1966, Guyana has received \$42.8 million in aid from the United States.) Rockefeller responds by telling Burnham that "your young republic . . . is a different South

America." The governor flew here from Jamaica, where he met earlier today with Prime Minister Hugh Shearer.

■ *Bridgetown, July 5* — Governor Rockefeller arrives in Barbados, the final stop on his 20-nation fact-finding tour through Latin America. (The governor had planned to visit Peru, Chile, and Venezuela, but Government leaders in those countries requested that the visits be cancelled because of the rioting and demonstrations that accompanied Rockefeller.) In his brief stopover here, Rockefeller says that he will recommend to President Nixon a major overhaul of U.S. policy toward its hemispheric neighbors. He adds, however, that he is not sure that the President will accept the recommendations. "Let's all keep our fingers crossed," says Rockefeller, "and we will see what comes out."

■ *New York, July 6* — Presidential envoy Nelson Rockefeller returns from his 43,000-mile tour of Latin America and promises to submit a report and recommendations to President Nixon next month on a "hemispheric-wide U.S. policy." The governor says that his report will cover a "broad range of fields" — economic, political, social, cultural, and educational — "relating to U.S. policy and U.S. Government organization." He refuses to go into detail, however, explaining that he is "sure the President doesn't want to read the report in the morning paper." Asked about the violence that plagued his travels, Rockefeller says that it "was more than I expected." He adds

that "the problems that developed during the course of the trip are clear evidence of the fact that all is not well and that there is an urgent need for changes in our policies."

Arms Ban on Peru Lifted

■ *Lima, July 4* — Peruvian Foreign Minister Eduardo Mercado Jarrin hails yesterday's U.S. decision to lift a ban on credit arms sales to Peru and says that it could open the way for a visit to Peru by Governor Nelson Rockefeller. The governor had planned to visit Lima in May as part of his fact-finding mission for President Nixon, but the Peruvian Government called the visit off after the State Department suspended sales of weapons to Peru in retaliation for the seizure of American fishing trawlers. Mercado Jarrin, in a statement, declares that "the suspension of the military sales cut to Peru was an indispensable condition to restart a constructive dialogue between the two countries about problems that are of mutual concern." Peru permits foreign vessels to fish inside its 200-mile limit but only after they are registered and pay for fishing licenses of \$500 per year. Many U.S. trawlers have refused to do this. Mercado Jarrin makes clear today that Peru "will maintain its firm stand on the 200-mile limit under any circumstances."

Those "Friendly" Rumanian Reds

■ *Bucharest, July 4* — Harry Barnes Jr., American chargé d'affaires here, declares that President Nixon's visit to

Communist Rumania next month will demonstrate the "good will and friendly relations that exist between us." In a unique speech on Rumanian television, Barnes says that nearly 200 years of American independence "has convinced us of the importance of interdependence among nations . . . All the aspects of our relations — political, economic, and cultural — can be further developed and the visit of President Nixon . . . is a major occasion in demonstrating the good will and friendly relations that exist between us."

The Murder of Tom Mboya

■ *Nairobi, Kenya, July 5* — Tom Mboya, Kenya's Minister of Economic Affairs, is shot and killed by an unidentified assassin today as he emerges from a drugstore on a busy downtown



Mboya is assassinated in Nairobi.

street. Mboya, 38, was also Secretary General of the governing Kenyan African National Union (KANU), and was regarded as the third most powerful man in the Government behind Communist President Jomo Kenyatta and Vice President Daniel Arap Moi. He returned yesterday from Addis Ababa, Ethiopia, where he had attended a meeting of the Economic Commission for Africa, a group sponsored by the United Nations.

Senator McGovern: Voice of Hanoi

■ *Washington, July 2* — Senator George McGovern (D-S.D.), in a speech urging that the United States withdraw all its forces from South Vietnam within the next 12 months, reports that he met secretly for nine hours on May 23 with the chief North Vietnamese and Vietcong negotiators in Paris. During the meetings, which had the blessing of U.S. negotiator Henry Cabot Lodge, McGovern says that the



McGovern spouts
Communist line
on Vietnam.

Communists informed him that no serious negotiations could take place as long as any American troops remained in Vietnam and as long as the United States supported the Government of Nguyen van Thieu and Nguyen cao Ky. "When I suggested to the Hanoi and NLF delegations that some Americans fear a bloodbath during or after an American withdrawal," McGovern remarks, "they replied that just the opposite would happen — the killing would stop." The senator continues: "I don't care if I make Hanoi unhappy or happy. If they derive some glee from this report, so be it . . . I left Paris with enhanced respect for the intelligence and the absolute devotion to their cause of both the North Vietnamese and the NLF allies. There is not the slightest doubt in my mind that however much some of our

officials believe we are repelling aggression in Vietnam, the North Vietnamese and the NLF see us as aggressors — the foreign invaders — the despoilers of their country . . . Beyond any resentment they feel toward us is their complete contempt for Generals Thieu and Ky. They regard them as the artificial creations of an outside power who are willing to slaughter their own fellow Vietnamese to maintain the lavish support of their foreign keeper."

The Futile War Talks in Paris

■ *Paris, July 3* — The 24th session of the war talks on Vietnam takes place today with the North Vietnamese and South Vietnamese delegates accusing each other's government of intensifying the war. Saigon's chief negotiator Pham dang Lam, during the five-hour session, charges the Communists with continuing to infiltrate troops and arms into the South. "You do not contribute anything to create a favorable atmosphere for the negotiations," says Lam. "You refuse to make any concessions, and above all, you make it a rule to oppose whatever does not come from you. On the battlefield, your side has not taken any action to de-escalate the war. Instead of progressively reducing the magnitude of military operations, you continue infiltrating troops and arms from the North into the South to nurture your war of aggression." This infiltration, says Lam, is "at a pace as high as, if not superior to, the one reached at the fiercest moments of the war." At a

news conference after the meeting, Hanoi's spokesman Nguyen thanh Le declares that "everybody can see that the Nixon Administration continues to intensify the war of aggression."

■ *Paris, July 5* — North Vietnamese chief negotiator Xuan Thuy returns to the war talks after six weeks of consultations with his comrades in Moscow, Peking, and Hanoi and repeats the unchanging Red demand that "America must withdraw all its forces and allow the Vietnamese people to solve



Thuy demands
U.S. withdrawal
from Vietnam.

their affairs themselves without outside interference." He declares that "in my view there is not serious effort on the part of the American Administration to speed up the peace talks. The Nixon peace plan is completely different from the revolutionary government's [Vietcong's] 10-point plan." As for President Nixon's decision to withdraw 25,000 U.S. troops from combat, Thuy says that the move is "aimed only at soothing the American public opinion which is clamoring for peace. To pull home 25,000 men out of 540,000 is meaningless."

U.S. Recognition of the Vietcong

■ *Hong Kong, July 7* — Vietcong officials declare that their Provisional Revolutionary Government was "recognized in fact and in deed by the

United States" even before it was formally established. The United States did that, the Reds say in a radio broadcast, when it sat down with National Liberation Front delegates at the war talks in Paris and also when it appointed a delegation of U.S. officers to receive American prisoners of war released by the Vietcong. The broadcast says that 23 nations have announced recognition of the Vietcong front "as the rightful and authentic government of South Vietnam."

Wishful Thinking on Vietnam

■ *Washington, July 2* — Secretary of State William P. Rogers reports that the Communists have apparently scaled down the level of fighting in Vietnam during the past week. "I talked to the Secretary of Defense just before I came to this press conference," says Rogers, "and he told me . . . that during the last week we have had the lowest level of combat activity in Vietnam for a long time, possibly during the whole war. If the other side reduces its aggressiveness and its combat activities, then that will be a factor which the President will consider in the number of troops that we withdraw and the timing of that withdrawal. Now, if the rate of combat falls off to a very small level, then obviously our plans will change. How they will change will depend on what the enemy's activity is." The secretary admits, however, that the lower combat activity of the Communists could be for reasons other than honorable ones. He says that the weather, a

decision to "regroup for another attack," and planning for future activity could all account for the decrease in fighting. In a related development, Rogers announces that the United States and Cambodia have agreed to an immediate resumption of diplomatic relations, which were broken in 1965 by Cambodia when it charged that U.S. military activity in Vietnam had spilled over into its territory.

■ *Paris, July 3* — Vietcong spokesman Duong dinh Thao dismisses Secretary Rogers' statement about a lessening in Communist military activity in Vietnam as a deceitful and dishonest tactic. "Mr. Rogers' statement," Thao says at a news conference, "is part of a maneuver by the United States to boast about what it calls its efforts to bring about a return to peace in order to camouflage the intensification of the war and the multiplication of American and puppet sweeps to massacre the population. As long as the U.S. Government continues to prolong the war, the South Vietnamese population will continue to fight for liberation and independence until its precious national rights have been attained."

■ *Saigon, July 5* — Communist gunners shatter an apparent lull in the Vietnam War, unleashing mortar and rocket bombardments against 44 Allied military bases and sinking a merchant ship in the Saigon River, seven miles from the capital's docks. Military spokesmen report that the shellings are the heaviest since June. Half of them, they say, were against major installations and caused damage and casual-

ties. Of the 44 Allied bases hit, 11 were American. Meanwhile, intelligence officials report that enemy documents captured within the last 10 days outline plans for a new wave of Communist attacks. While no timetable is mentioned, one of the documents refers specifically to attacks in the Mekong Delta area being vacated by troops of the 9th Infantry Division, who are part of the 25,000 Americans being withdrawn from Vietnam by the end of August.

Four Years of Bombing Nullified

■ *Washington, July 7* — Air Force Chief of Staff General John P. McConnell told the Senate Armed Services Committee on April 16 that North Vietnam was able to rebuild about 75 per cent of its bomb damage within five months of the total halt to U.S.



McConnell says bombing halt perils troops. In testimony released today, McConnell says that "practically everything in North Vietnam has been rebuilt — all the highways, the bridges, the trans-shipment points that were destroyed, and what little industry they have, which is not much. But everything is operating up there now very nearly as if it had not been even

touched. I would say the repair is 75 per cent completed." The general says that since the bombing was halted last October 31, "supplies now enter North Vietnam without any difficulty and are brought right down to the Demilitarized Zone without any difficulty, and the tonnages are extremely high. From there the supplies go over into Laos. Prior to the time the bombing in the southern part of North Vietnam was restricted, we were able to practically close all of the routes leading into southern Laos, and much of the supplies that were coming down through the southern half of North Vietnam were destroyed until the time that the complete bombing cessation was made effective." Because of the bombing halt, McConnell asserts, the Communists "have moved their supplies from the North right down to positions north of the DMZ. They have moved their supplies from the North to points just across the border between Laos and South Vietnam, so therefore they have them much closer. So I would say that the troops are in more jeopardy than they would have been had the supplies been under attack all the way back up to the [Red] Chinese border and Haiphong, or at least to 19 degrees north, as it was before the bombing halt."

The Withdrawal Begins

■ *McChord Air Force Base, Wash., July 8* — The first American troops withdrawn from Vietnam by President Nixon arrive home today to a welcome from General William C. Westmoreland

and 3,000 cheering friends and relatives. "You can look any man in the eye knowing that you have served your country when you were called," says Westmoreland, Army Chief of Staff and former U.S. commander in Vietnam. "You have done what you were asked to do by your Government in furtherance of national policy. You, together with our Free World allies, helped provide the shield behind which major objectives have been accomplished. You men have also demonstrated. You have demonstrated your sense of responsibility — the responsibility of an American citizen to serve his country." In Saigon earlier today, the same troops were told by General Creighton W. Abrams, U.S. commander in Vietnam, that "you are a credit to your generation. You have proven that conscientious men today, as in the past, are willing to endure great hardships and self-sacrifice in order to preserve freedom throughout the world. You occupy a significant moment in history. Americans everywhere are proud of your achievements . . . You and your predecessors have conducted yourselves magnificently against a tough, wily, and determined enemy." Also present was President Nguyen van Thieu of South Vietnam. He told the 814 departing soldiers that this "is only the beginning of a process leading to a situation in which most of the defense of Vietnam will be borne by the Vietnamese forces." While noting that his country "will continue to need defense supplies and logistic support

from Allied nations," Thieu asserted that "we shall have less and less to demand the supreme sacrifices in blood and human lives from Allied nations in this struggle for freedom."

American POW's in North Vietnam

■ *Saigon, July 2* — A broadcast over Hanoi radio monitored here says that the North Vietnamese will release three American prisoners of war on July 4. "On the occasion of the Independence Day of the U.S. people," says the broadcast, "the Vietnamese people's Political and Armed Forces Central Agency decides 1) to release three U.S. pirates captured in North Vietnam, and 2) to allow the U.S. captured in North Vietnam to receive presents from their families." (At least 1,331 U.S. servicemen are listed as missing in action in the Vietnam War but only 340 are known to be prisoners of the Communists, many of them pilots shot down over North Vietnam. Hanoi previously has released six captured American pilots, in two groups of three.)

■ *Paris, July 3* — U.S. Ambassador Henry Cabot Lodge thanks North Vietnam for its announcement that three captured American fliers will be released and expresses hope that it will lead to further and more general prisoner releases. Speaking at the war talks on Vietnam, Lodge says that "we have just seen press reports that North Vietnam has announced the release of three American prisoners of war and that it will allow other American prisoners of war to receive gifts from

their families. If this is accurate, I express appreciation on behalf of the U.S. Government. I hope that this action will lead to further and more general prisoner releases by your side and to such other humanitarian acts as a list of names of prisoners, permission for all prisoners to correspond with the families, and release of sick and wounded prisoners."

The Rising Toll in Vietnam

■ *Saigon, July 3* — Officials of the U.S. Command report that 241 Americans were killed in Vietnam last week and 1,674 were wounded. These figures bring total U.S. combat casualties since 1961 to 36,866 killed, 236,563 wounded, and 1,331 listed as missing or captured. Another 6,100 Americans



have died from so-called non-hostile causes such as accidents and illness. South Vietnamese losses for the week are put at 446 killed and 804 wounded, bringing their death toll for the war to 81,715. An estimated 523,552 Communists have been killed during the same period. (Since the war talks began in Paris nearly 14 months ago, 14,252 Americans have died on South Vietnam's battlefields.)

'TIS PASSING STRANGE

■ CAMPUS violence must be regarded as a reaction to "coercive pressures," explained the department of higher education of the National Council of Churches early in June. "We believe," the "religious" seers of N.C.C. concluded, that: "God is in some way present in the midst of these movements, and we would be prepared to see in them His creating of a new order."

■ Burglars broke into a house in Tel Aviv a week ago and took away the sum of \$20,000. The house belonged to the town's best-known beggar.

■ Juan Sigler, who has been a barber for thirty-two years, announces the closing of his shop in Key West, Florida. "It's the long hair, the new style," explained Mr. Sigler. "There's no hair to cut. There's no business."

The more enterprising management of a shoeshine shop at Harvard Square in Cambridge, Massachusetts, having long catered to college students who wore shoes, has decided not to close its doors even though faced with declining business brought on by now shoeless students. The management hopes to capture the patronage of the barefooted and sandaled "scholars" with the help of a newly erected sign in the front of the shop: "Feet washed and toenails polished, \$1.50."

■ Councilman Joseph Bulgo of Wailuku, Hawaii, was concerned when he

found a dead snake in the county stable recently. Hawaii is not supposed to have snakes. Mr. Bulgo, concluding the serpent had been shipped to Maui in a bale of hay, turned to director of the Honolulu Zoo Jack Thorp, who identified the snake as a young racer, used in legendary rainmaking rites. Zoo director Thorp says that "to induce rain you must take off all your clothes and dance around the yard, waving the snake over your head."

■ Veteran correspondent Richard Hughes, remembering how many former colonies around the globe had been catapulted into "freedom" by often innocent and ignorant "Liberals," made a point which should be "indelibly written in the thoughts of starry-eyed idealists" when he wrote in *Asia Magazine* earlier this year: "In an imperfect world, innocence is as dangerous as ignorance, and a combination of both is fatal."

■ Police officers in Chicago spent hours last Monday searching for three lost children. They found them in a local movie house, watching a film called *Support Your Local Sheriff*.

■ Cartoonist Al Capp recently urged a Senate subcommittee currently probing national violence to view the campus disrupter as the absurd creature he is. As Capp put it: "When he has a tantrum, slap his fanny. When he throws a fit of temper, lock him up

until he cools off." The cartoonist, tired of hearing that the rampaging students are the brightest ones on campus, continued: "They may be bright enough to get high marks in the never-never land of the classroom, but once they step into real life they're not bright enough to know that if you hit a cop with a brick he's apt to hit you back. They are bright enough to know that serving in the army is a drag, but they are not bright enough to know that if their fathers had been as bright as they are, they themselves would have been baked in ovens."

■ Secretary of State William P. Rogers reported Tuesday that President Nixon would discuss increased trade possibilities when he visits Communist Romania early next month, as he stressed that the Administration's policy toward expanded East-West trade was "sensibly to liberalize it."

"We think that the present law [The Export Control Act of 1949] does permit considerable liberalization of trade," continued the Secretary, "and, if we find that in our discussions with Eastern European [Communist] countries it is in the best interests of the United States to increase trade, then we can ask for legislation that would give them [Communist nations] most favored nation treatment."

■ Sp. 4-c Joseph P. Holmes of Orlando, Florida, decided to pick up three hitchhikers who flagged him down on the road to Brussels one day last week. The three were four-star generals, on their way to a meeting of the North Atlantic Treaty Organization in Brus-

sels when their helicopter broke down. General Lyman Lemnitzer, the retiring supreme allied commander in Europe, Air Force General Horace M. Wade, and British Army General Robert M. Bray, rode to S.H.A.P.E. headquarters at Casteaux in Holmes' small sedan. When their driver asked them for a note to explain the delay to his superior officers, they instead posed with Holmes for a photograph.

■ In a letter to the *San Francisco Chronicle* on June thirtieth, Basil Gladieux wrote, "Dear Editor: According to 'Bob Considine's Column' in the Sunday June 29th issue of the paper, the State and Defense Departments are embarked on a 'mission of mercy' to call on the families of servicemen who are 'missing' or are 'prisoners of war' held by the Vietcong. The purpose of these calls is to assure the families that their loved ones have not been forgotten. I am wondering if in their magnanimous efforts they have included the families of the 954 American GIs who are *still prisoners of war from Korea*. Wanna bet?"

■ An advertisement appeared early this month in a St. Louis newspaper, offering an unusual automobile for sale: an "automatic hardtop vehicle — with beam ceiling and fireplace."

■ A circular mailed last week by a public relations firm in London, to the Priory of Augustinian Canons in Guisborough, was returned to the sender with the notation: "Gone away. The Priory was dissolved by King Henry VIII in 1540." — M.P.W. ■ ■

CORRECTION, PLEASE!

ITEM: From President Nixon's message on foreign aid in the *Congressional Record* for May 28, 1969:

There is a moral quality in this nation that will not permit us to close our eyes to the want in this world, or to remain indifferent when the freedom and security of others are in danger . . . Our record of generosity and concern for our fellow man, expressed in concrete terms unparalleled in the world's history, has helped to make the American experience unique. We have shown the world that a great nation must also be a good nation. We are doing what is right to do.

CORRECTION: As was to be expected, a number of Republican Congressmen fawned over the President's remarks. Illinois Republican Harold R. Collier, however, had the courage and integrity to discuss some of the dangers of the foreign aid scheme. Congressman Collier noted that, for a nation plagued with the serious fiscal problems the United States faces, it is economic suicide to continue to pour money down the foreign aid rathole. He observed that as of December 31, 1967, our national debt was over \$345 billion, and that "one half of our indebtedness represented total foreign aid from 1946 to 1968 plus the interest we had to pay to borrow the money before we could give it away. The interest on the public debt of the United States for fiscal 1970 will be \$15,958 million. One half of this became necessary because of our past foreign aid expenditures plus interest." (*Congressional Record*, May 28, 1969, p. H 4253.)

Last September Mr. Nixon made the following campaign statement at the American Legion National Convention: "I say there should be no increase in trade as far as strategic items are concerned that might increase the war making capability of the Soviet Union or other communist countries. And there should be no aid and no credits of any kind with any country, including the Soviet Union, that aids the enemy in North Vietnam." However, there is not one word in Mr. Nixon's foreign aid message about cutting off funds for Communist countries, or from any nation doing business with Communist North Vietnam. This alarming omission may be what prompted Congressman Collier to point out:

"Among the nations that have received a tremendous amount of assistance is Communist Yugoslavia, which has benefitted to the extent of

\$2,633,100,000 We contributed \$7,394,000,000 to the United Kingdom; that nation carries on trade with Communist North Vietnam and Communist Cuba, our enemies. Other nations that trade with our enemies are Italy, the recipient of \$5,329,100,000 in aid from us; West Germany and Japan, each of which received over \$3,500,000,000; the Netherlands, which got \$2,052,700,000; and Norway, which received \$1,132,400,000"

Henry Hazlitt, the internationally respected economic journalist, wrote an excellent article debunking the foreign aid fiasco in *The Freeman* for February, 1966. In that commentary he observed: "We sometimes hear it said by American advocates of foreign aid (. . . and *always* by the Communists) that the U.S. has got great advantages out of its foreign aid program We must give part of our goods away, or give foreigners the dollars with which to buy them, to keep our factories going and to maintain full employment. This program was even necessary, according to the communists, to 'postpone' the 'inevitable collapse of capitalism.' " Hazlitt establishes in some detail that all of this is "unmitigated nonsense." But isn't it interesting to note the concern manifested by the International Communist Conspiracy in "our" foreign aid program? One does not have to look very far for the reason. In 1944 Earl Browder, at one time the top man in the Communist Party, U.S.A., wrote a book called *Teheran: Our Path In War And Peace* in which he urged:

"America can underwrite a gigantic program of the industrialization of Africa, to be launched immediately at the conclusion of the war." Browder did not limit his suggestion to Africa: "Our [*the United States*] government can create a series of giant industrial development corporations . . . and set them to work upon large scale plans of railroad and highway building, agricultural and industrial development, and all-around modernization in all the devastated and undeveloped areas of the world." Stalin said the same thing, that same year, in his book *Marxism And The National Colonial Question*. American foreign aid began in 1945, along these very lines.

In 1955 the butcher of Budapest, Nikita Khrushchev declared: "Some of the more canny bourgeois leaders say now that the capitalist countries should increase economic aid to the underdeveloped countries. This is not a bad idea. Let the capitalist countries render them such assistance." Communist journalist Victor Perlo, writing in *The Worker* for November 19, 1964, stated that the Communists look with favor upon "substantial foreign aid to basic industrial development in Asia, Africa and Latin America." This is precisely what our foreign aid has been used for over the past two decades.

Thus, rather than "doing what is right to do," as Mr. Nixon piously intones, the President is in reality praising a giveaway scheme designed by the Communists to bankrupt the United States and to socialize the world. Let's end foreign aid, now! — W.E.D. ■ ■

REPORT!

THE FEDERAL RESERVE SYSTEM

■ ON December 7, 1968, something happened in Minnesota, so dumbfounding, so important, and at the same time so simple and obvious, that it overshadows even the legendary revelation that the emperor wore no clothes. On that day, in that state, a trial jury unanimously declared the Federal Reserve Act illegal.

No, Virginia, "Federal Reserve" is not a brand of bourbon — though a case of it can cause delirium tremens of the economy. As in our own.

What is money? Money, as you know, is used as a medium of exchange. To qualify, whatever is used must have intrinsic value — as do sea shells for decorative purposes, and cattle for food — simply because its success as a medium demands that it be valued; because people won't long accept something without value as a measure of value; because something without value will not be sought. And, for the same reason, it must be comparatively scarce. Grains of sand would not succeed, for example, as a medium, since an infinite amount is available to all.

Money appears even in primitive economies to eliminate the problems of the barter system . . . such as how to exchange apples and avocados. It provides a common measure of value.

What part, then, in a sensible monetary system, should paper play? It should be only what it was introduced to be: nothing but a financial shortcut and a convenience. The use of paper in finance is a fairly modern practice. Before paper, the money alone was exchanged, which in modern economies has always been a combination of precious metals, preeminently gold. "Men seldom make passes at girls who wear glasses," according to Dorothy Parker, but this often doesn't apply, even to bifocals, if the girl wears enough gold. And one can't build a self-respecting palace without it. So gold is valued for itself. It is scarce, malleable, easily stored and divided.

But with the growing complexity of Renaissance business transactions, it became difficult and impractical physically to transfer growing quantities of gold. So, more and more, gold owners began to rely on the goldsmiths. These were the artisans who fashioned the gold; and, since they always had some on hand, they also had vaults in which they stored it. More and more, the gold owners stored their own gold in these vaults, in recognition of which the goldsmith gave them a receipt.

The gold owners introduced a profound, financial innovation when they began to exchange not the gold but the receipts for it. Such receipts gradually became paper currency.

Of course, nobody was so silly as to believe that the paper was the money. Paper, according to the dictionary, is paper — which we may not like but is the way things are. Everybody old

enough to wear a peruke knew that the money — the gold — was in the vault; that the only purpose of the paper was to prove it; that the paper was only the title to the money — and that whoever held the title had the right to exchange it for gold.

The paper was not and could not be the money, just as a receipt for anything else — for some furniture you store in a warehouse, say — obviously isn't the thing you hand over; just as your personal check isn't money, but an order to deliver money. The person to whom you give it doesn't keep it, but presents it to your bank which pays him from your account.

It was a convenient system, but has been the victim of abuse. Some goldsmiths began not only to lend the gold in their vaults (which did not belong to them) to others at interest, but also to lend receipts at interest for gold which was not in their vaults, and did not exist. In other words, abusing the financial shortcut of paper, they began lending money they did not have and which did not exist — in order to earn the profit called interest — simply by pretending that they had it and that it did exist; simply by writing a receipt which said so. They were creating phony credit. And, from time to time, goldsmiths, and, later, bankers, found doing this were shot. "Runs" on banks would occur when such fraud was suspected; runs by paper holders demanding the money — the gold — which the paper said they owned; runs where depositors were in competition to withdraw their deposits because

they all realized that there was not enough gold in the vaults to satisfy all the claims to it written on the paper, and that the losers in the "run" would be left with paper and nothing more. Your creditors do the same — compete with each other for your remaining cash — when they suspect you are going broke.

They realized in short that the bankers had lent them use of a non-existent property — a variation on the hallowed con game of selling the Brooklyn Bridge.

All of us remember that the paper used during our War for Independence was "not worth a Continental." After World War I, Marxist conspirator John Foster Dulles imposed on Germany the ruinous war debt which Woodrow Wilson had promised to reject, and the fiat paper the Weimar Republic printed to pay it became so worthless that workers would literally run to the factory gates with their pay, so that their wives could run with it to the markets before the prices changed. Indeed, when the Marxist conspiracy finally seized Russia, the conspirators deliberately destroyed the people's wealth, by printing as many paper rubles as they could, in factories converted for the purpose — and they did so of course to enslave the people by making them dependent on the dictatorship. The commissar running the program would regularly boast to his colleagues about how many millions in paper he had printed. As in the Weimar Republic, the price of the cheapest item was in the millions. If mem-

ory serves, it was Lenin himself who said that the best way to destroy a country is to "debauch its currency."

The debates show that our Founding Fathers were very suspicious of paper currency. Indeed, they did what they could to forbid printing it here. In Article I, Section 8 of our Constitution, they delegated to Congress power "To coin Money, regulate the Value thereof, and of foreign Coin . . . To provide for the Punishment of counterfeiting the Securities and current Coin of the United States . . ." And in Article I, Section 10 they wrote: "No State shall . . . coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any . . . Law impairing the Obligation of Contracts . . ."

Observe their hostility even to paper that might at first be fully backed. They were trying to prevent the development of the paper racket here.

But, in 1912, Woodrow Wilson was elected President — which brought to power his puppeteer, Colonel Edward Mandell House. House was by far the most influential presidential advisor in history. At the time, people wondered publicly who was really running the government: the man they had elected, or his mysterious advisor. It was House who chose Wilson's Cabinet — as he had earlier chosen Wilson himself. At the first Cabinet meeting, for instance, Franklin K. Lane had to tell Wilson as follows: "My name is Lane, Mr. President. I believe I am the Secretary of the Interior." Wilson had

never met him and was *probably* wondering who he was.

The man who had such shattering control of our government was already a systematic Marxian Socialist. We can be absolutely sure of this because he said so. In the fall of 1912, House anonymously published his book — *Philip Dru: Administrator: A Story of Tomorrow* — in which he advocated "a comprehensive system of state ownership," and the "leveling of wealth."

Indeed, House wrote that what he wanted was "Socialism as dreamed of by Karl Marx."

In the Communist Manifesto, as you will recall, Marx had demanded a graduated income tax — as essential to the creation of a Socialist State. So, House imposed a graduated income tax on the American people.

In the Communist Manifesto, Marx demanded an inheritance tax. So, House gave us one of those.

And Point Five of the Communist Manifesto demands as follows: "Centralization of credit in the hands of the State, by means of a national bank with State capital and an exclusive monopoly."

Why would the Conspiracy for which Marx was the front man want that?

Well, they were and are trying to create a dictatorship, aren't they? They say so. They call their dictatorship the "dictatorship of the proletariat." And the essence of dictatorship is of course centralized control — control in the hands of the dictators running it. And dictatorship deserving the

name must take control of its victims' money.

So, in *Philip Dru*, House advocated a new banking law "affording a flexible currency, bottomed largely upon commercial assets, the real wealth of the nation, instead of upon debt, as formerly."

In other words, the value of the currency would change whenever the conspirators felt like flexing it. No longer would paper be the proof that the person issuing it owes the person taking it an exact amount of gold. Now, currency would be issued on the basis of how much wealth the conspirators said was in the country.

House held meetings with various financiers. Indeed, writes George Sylvester Viereck (*The Strangest Friendship In History*, New York, Liveright, Inc., 1932), at a dinner arranged by banker J. Horace Harding, House "convinced the financial overlords that the Democratic donkey, with Wilson in the saddle, would not kick over the traces.

"House did not disguise or conceal from Mr. Harding's guests Wilson's desire to accomplish certain financial reforms along sound principles *accepted by the bankers themselves*. The Colonel's words smoothed the turbulent waters . . . *The Schiffs, the Warburgs, the Kahns, the Rockefellers, the Morgans put their faith in House* . . ." [Italics added.]

And on December 23, 1913 — when Congressmen and their constituents were getting ready for Christmas — Woodrow Wilson signed the Federal

Reserve Act, which established the Federal Reserve System. As usual, House appointed the first members of the Federal Reserve Board.

Now, why would these billionaire financiers "put their faith in House"? Why would they welcome this demand from the *Communist Manifesto*?

Suppose for instance that a man gives you a note in the form of his personal check, in payment of a bill he owes you. His check, of course, is simply a piece of paper — a message ordering his bank to pay you money. If there is no money in his account his check will bounce, and you will reach for your telephone and call the police.

So, suppose the man somehow gets control of the police — as gangsters periodically do even in some American towns, and in country after country around the world — writes the same rubber check and says you must accept it; says it is now "legal tender," and that there is no need to send the check to the bank. Now you are the victim of a typical gangster charade, comparable to the "protection" racket — in which the gangster "sells" protection from himself. Again you reach for your telephone to call the police but you realize that the gangster controls the police. You realize there is nothing you can do. But of course you are unhappy. You have very obviously been robbed. Your "customer" becomes afraid you will stop producing things for him to "buy."

So, suppose one of the man's partners begins to issue interest-bearing "bonds" — which the man pretends to

buy with the same rubber paper. The illusion of a genuine transaction has been created; the illusion that there is something behind the paper. The man says his rubber paper is now "flexible," that it is "bottomed largely upon commercial assets, the real wealth of the nation, instead of upon debt, as formerly." But you still haven't seen any money — any gold.

It would still be robbery, of course, robbery of a fancy sort: the sort you would expect if the man had been to a fancy "Liberal" school. So you wouldn't call it robbery, but the "Federal Reserve System."

Some writers criticize the System, saying it is "private"; that it gives a gang of "private" bankers control of our finances. But the truth is exactly the reverse. The problem is exactly that they are *not* private. And they are not bankers. They are just another sort of government bureaucrat with the power of the gun. If they really were private — if they lacked that power — they would not be able to force you to accept their rubber "money." They would not be able to make it legal tender. Indeed, they would probably be arrested and charged with fraud. But since the Reserve "bankers" do have the power of government which therefore also has them — they are just about as "private" as the industrialists under Hitler.

And the System has been very profitable — for the bureaucrats. Whenever the bureaucrats want more "money," they simply "sell" themselves government securities and print

it for themselves. They borrow money, which is fine — as long as the collateral you pledge exists. And they lend "money" at interest, millions and billions, which is perfectly all right — as long as you have the money you claim to be lending.

That is why some financiers joined forces with House: because the Conspiracy fronted by Marx wants *control* — as Marx said — to conceal which they talk of "impoverished masses."

Some writers defend the System, saying it has been run by "honorable men." But, even if true, this is totally irrelevant. The most honorable man in the world can't produce sound finance using paper without backing — and ours, as you know, is now completely unbacked — because he has no objective way of knowing how much to issue. If gold is behind it, he does. Paper can't be money because it is limited in intrinsic value and almost unlimited in supply — so the "honorable men" print more and more.

Observe that the period since the creation of the Federal Reserve System has been marked by unprecedented economic instability, by boom and bust, by recession and depression — and that your dollar buys less and less. This is because the more money there is, the less it is worth; because, after a while, people begin to realize that funny money is exactly that. And the money managers — even the "honorable men" — contract the credit as the "solution"; to "cool off the economy," which of course intensifies the crisis of confidence. It was exactly in



*A Proud Name
In a Great Industry*

TIMBER
VENEER

BROOKINGS, OREGON

this way that the Federal Reserve Board caused the 1929 depression.

Indeed, the phony "bankers" are using the Federal Reserve System to impose the dictatorship Marx wants; because of course the phony "bankers" are among the dictators. Dictatorships are run of course not by "impoverished masses" — or small depositors — but by dictators, people at the top, such as the phony "bankers." Observe that the conspirators imposed the Federal Reserve System by claiming that the stable system it replaced was somehow unstable. And the new System created an instability which they regularly "solve" with more government controls. For instance, it was the 1929 depression which they "solved" with the New Deal. It was the emergency they had caused with government controls, which they used as the excuse to impose even more controls.

For instance, on June 20, 1969, William McChesney Martin Jr., Chairman of the Federal Reserve Board, told a meeting of the American Bankers Association in Copenhagen that if necessary he favors a credit freeze, an even higher surtax, and "forced savings" to bring inflation under control. Indeed, he apparently advocates everything but abolition of the Federal Reserve System which is being used to cause the problem.

"We're going to have a good deal of pain and suffering before we can solve these things," Mr. Martin said. And, you better believe it.

Exactly what it means, I don't know, but Associated Press also re-

ports as follows: "Newsmen asked Martin after his talk to the bankers how a U.S. government could exact forced savings from the people. He replied by citing an experience he had in the Soviet Union. He said he asked Soviet officials how they would pay for a huge hydroelectric dam and they told him they simply would take it from the people."

For the record, John M. Lee, who was there, did not report this to his readers of the *New York Times*. Or maybe he did, and his copy editor removed it. It is rather difficult to print to fit.

And this brings us to a place appropriately named Credit River, in Minnesota. It brings us, in fact, to attorney Jerome Daly and Justice of the Peace Martin V. Mahoney. On May 8, 1964, Daly borrowed \$14,000, secured by a mortgage on real property, from the First National Bank of Montgomery, Minnesota, a member of the Federal Reserve Bank of Minneapolis, and, for three years, he made the payments. Then he stopped, and the bank naturally acted to recover the property. Two judges were disqualified by affidavit of prejudice, one by Daly, the other by the bank. A third judge refused to handle the case. And on December 7, 1968, pursuant to law, a jury heard it in Credit River, in the court of Justice of the Peace Mahoney. Daly argued, and Lawrence V. Morgan, the bank's president, agreed, that the bank had manufactured the \$14,000 lent to Daly simply by making an entry in its books. Daly said that

therefore no consideration was involved — in essence, that the bank had not lent him any money.

And the jury unanimously agreed — thereby finding the base of the Federal Reserve System illegal — after which Mahoney ruled that the bank could not recover. "Only God can create something of value out of nothing," said his Honor — and, at last word, the System's claims do not extend that far.

There is more. Pursuant to Minnesota law, the bank filed for appeal within the stipulated ten days, submitting the stipulated two dollars to Mahoney. But the "two dollars" they submitted were Federal Reserve notes — bearing serial numbers L1278283C, issued by the Federal Reserve Bank of San Francisco, and I80410697A, issued by the Federal Reserve Bank of Minneapolis — and the judge refused to accept them and denied the appeal. "These Federal Reserve Notes are not lawful money within the contemplation of the Constitution of the United States and are null and void," said his Honor. "Further the Notes on their face are not redeemable in Gold or Silver Coin, nor is there a fund set aside anywhere for the redemption of said Notes."

The Judge ordered a hearing for January 22, 1969, notice of which was served on a bank official, so that the bank could try to prove that the notes are lawful money, issued in conformity with the Constitution of the United States.

Nobody showed up.

I talked with bank president Morgan and bank attorney Theodore R. Mellby. Both said that if Daly has his way "our economy would be wrecked." But it is fair to say that they did not explain why. Why would our economy be wrecked if our money were gold and silver coins — with which the politician-bankers could not tamper?

Morgan wryly observed that Mahoney's court is a combination of saloon and grocery. Mellby said "we can't carry around silver bullion," and that the Constitution is a "living document," an idea which is slowly causing its death. "The Constitution even forbids paper currency," he said. He cited a decision of the Eighth Circuit Court of St. Louis (Bernard E. Koll v. Wayzata State Bank, 19080, July 5, 1968), in which the Court called Daly's goal an "unreachable quest." A district court in Iowa has issued a permanent injunction, says Mellby, forbidding Daly "ever again to raise the issue in an American court," which I, for one, do not understand. The current case will be reheard in July, in the first judicial district of Minnesota, he says. And he mentioned a contempt citation for Judge Mahoney, who is refusing to surrender the deed and mortgage.

The current case is a climax in a ten-year battle by the Daly forces, who are trying to get the issue to the U.S. Supreme Court. Let us all hope they succeed. That would probably be a good way to test the purported conservatism of Justice Warren Earl Burger. — ALAN STANG ■ ■

ANALYSIS

NO HIDIN' PLACE

Went to the Rock to hide my face,
Rock cried out, No hidin' place.

Negro Spiritual

■ THE cataclysmic hypothesis under which the black lunatic fringe has striven for instant salvation by release from white restriction and domination in the extreme form of physical separation continues sporadically to operate.

Currently it finds outlet through the Republic of New Africa, a gaggle of violent extremists who have revived a version of the old Self-Determination for the Black Belt which the Sixth Congress of the Third International brought forward in 1928 in Stalin's bid for Negro support. The bid fell as flat as a pancake, as has the bid of the Republic of New Africa. Almost no sensible Aframericans relish talk of segregation, either at home or abroad — especially in the violent manner proposed by the R.N.A. and their Black Panther associates.

Even before the Revolutionary War, some free Negroes in Rhode Island sailed back to Africa, even as some "returned" to the Dark Continent from Bahia in Brazil. During the period from 1816 to the Civil War, some ten thousand freedmen of the American Colonization Society were assisted in emigrating to West Africa by inter-

ested whites who from social or humanitarian reasons felt there was slight future in the United States for free Negroes. This view was held even by Abraham Lincoln. But apparently it was held by few of the half-million blacks who were free on the eve of the Civil War.

Since that time, as Negroes have learned more about Africa and experienced a well-being unknown elsewhere among blacks or whites, agitation for instant separation has died down. And when an American colored person speaks of his homeland, he is not talking about Africa but about South Carolina, Tennessee, or Mississippi. The rarest thing outside America is to find a black U.S. expatriate without his American passport. In a lot of world travel, I have found none.

On the eve of World War I, an Oklahoma black calling himself Chief Sam led a shipload of the simple-minded astray to Liberia and inevitable suffering and disillusionment. Then, after World War I, the Jamaican black, Marcus Garvey, came to the American fleshpots and organized the Universal Negro Improvement Association and African Communities League with the "Back-to-African" slogan which split the ears of the black groundlings, mostly West Indian expatriates. Like the present-day escapist crop, everything was painted black. There was a Black Star Line, Black Cross Nurses, and a black Virgin Mary. All this was followed by black disaster, as Garvey was nabbed and jailed for fleecing his followers, and later de-

ported to his native Jamaica where, having no indigenous following, he promptly left for London and a more plentiful crop of suckers.

Coincident with the decline of the infantile paralysis of Garveyism, there arose the 49th State Movement which appealed to the ever-present lunatic fringe of instant salvationists by proposing that a new state be created for Negroes. No name was mentioned for it (although many possible ones suggested themselves — none complimentary). Presumably it was to be located in the sparse-settled West, in lands largely populated by jack rabbits. The founders of this movement without membership were two Chicago lawyers, one a West Indian.

Despite the vast increase in mental institutions, there are still thousands of these racist segregationists loose, which accounts for the spread of the Black Panthers and the Black student and teacher groups on hundreds of campuses — bandits, vandals, and arsonists all. Their patron saints are Che Guevara, Frantz Fanon, Eldridge Cleaver, and that veteran Communist revolutionary, Robert F. Williams — the fugitive kidnaper from Monroe, North Carolina. Williams, formerly in Havana broadcasting for Castro, went to the more luscious fleshpots of Peking, and was last domiciled in Dar es Salaam, hard by Red Zanzibar.

Comrade Williams' chief claim to ill-fame is that he is editor of *The Crusader* (which sparkplugs violent revolution among American Negroes), and was recently elected President of

the Black Republic of New Africa at a Detroit gathering of Black Powerites. Some of these "leaders" were already under indictment or sentence for planning assassination of moderate black leaders, blowing up national monuments, or masterminding the gutting of department stores. Interestingly, in the Twenties there was another *Crusader* — that one edited in New York by Communist Cyril Briggs, then head of the first Negro Communist Front, the African Blood Brotherhood. Apparently this is a case of literary inheritance.

The difference between *The Crusader* of Briggs and *The Crusader* of Williams is that the former was subsidized by Moscow and the latter is bankrolled by Peking. Another difference is that the former rather timorously advocated the overthrow of the American Government by force and violence while the latter gives explicit instructions on guerrilla warfare, manufacture and/or theft of weapons from U.S. arsenals, subversion in the National Guard, burning of forests and countryside, destroying fire hydrants, wrecking telephone exchanges and power lines, killing of key people, and wholesale incendiarism.

In sum, the latest angle to the cataclysmic hypothesis is not the attainment of instant salvation by physical separation from whites but the physical destruction of whites and all of this civilization. Some of the less violent of these black agitators, still seeking escape, have taken a leaf from the old Communist "Self-Determina-

tion for the Black Belt" and demand that the Republic of New Africa be composed of Alabama, Georgia, Louisiana, Mississippi, and South Carolina . . . as a beginning. This lends significance to frenzied efforts to capture county offices in those states, subsidized by Northern white funds and foundations which also recently backed more large-scale efforts in Cleveland, Gary, and Los Angeles. In anticipation of further trouble-making, the Communists in New York have decided to run a Negro nonentity as mayor in the forthcoming election in opposition to the incumbent John V. Lindsay, the Liberal Republican who has reduced the city to a shambles.

Approving these incendiary plots and stratagems are those rivals, the Black Muslims and the Malcolm X Society, and a spate of associations, clubs, and cells across the country — all named "Black" or "African" and aimed at terrorizing not only the whites but also the blacks who do not go along with the murderous program. There is a sinister similarity between what is going on here and what went on in Kenya by the Mau Mau and in Rhodesia by the Zimbabwe movement before it was suppressed.

Back in 1964 at the national convention of the Congress of Racial Equality in North Carolina, it was decided to switch from the more spectacular extremist tactics to intensive work inside the Negro communities to subvert governmental institutions and activities: *i.e.*, to make a little Yenan out of every ghetto.

Others followed suit, including the Southern Christian Leadership Conference and its alter ego, the Communist Southern Conference Educational Fund. The former gained prestige with its occupancy of the nation's capital while Johnson dolefully looked on; the Fund masterminded the Louisville riots and sought to disrupt the Kentucky Derby.

Since that time the criminal insane have been mobilized into gangs terrorizing both black and white neighborhoods, grammar schools, high schools, and colleges — and demanding diplomas as honorary graduates, even though illiterate.

What started out as a move to escape the oppressive whites has been escalated into a move to keep whites from escaping blacks! These criminal elements are not just talking revolution but are fomenting it in collaborating with the Revolutionary Action Movement, the Socialist Workers Party, the Students for a Democratic Society; and, at a more respectable distance, by the Congress of Racial Equality, the Student Nonviolent Coordinating Committee, and the Southern Christian Leadership Conference. It was the venerable Gus Hall, Executive Secretary of the Communist Party, who said at the time of Dr. King's Chicago "non-violent" imbroglio that the time had come for the civil rights movement and the working class movement to become one.

With a little contemplation it becomes clear that what seemed incomprehensible is explainable on escapist

grounds. Youngsters who marched around in exotic dashikis and foot-high bushes of hair, and chanted "Black is beautiful . . . it's so beautiful to be Black," while tom-toms rumbled and rattled, punctuated by choruses in newly-learned Swahili, were symbolically escaping from the white folks. The riotous assemblages, the invasion of churches and college offices demanding astronomic reparations for centuries of slavery (African kings who initially sold them being exempted, of course), the demands for unearned diplomas as status symbols — all are expressions of the cataclysmic hypothesis which has so shocked the unready and unprepared white power structure.

Ironically, the little black Yenans harboring these pathetic little minorities led by their scheming, sinister Sorcerer's Apprentices face the awful prospect of dwindling in size. In late October an Associated Press report out of Washington, D.C., noted that the government was finding a substantial exodus of both white and black workers out of the worst slum neighborhoods in the nation's hundred largest cities, along with improved economic conditions for those remaining. In the preceding three months about 300,000 workers had left the poorest slums for better urban and suburban towns.

Four months after this report, a *New York Times* investigator told of the dramatic drop in Negro migration to the large cities. He quoted Dr. Herman Miller, chief of the Population Division of the Bureau of the Census, as saying: "One of the things that has

happened since the riots is that the rate at which whites are leaving the city has accelerated sharply . . . The rate at which Negroes are moving into the central cities decreased even more dramatically." While George Sternieb, economist of Rutgers University, concluded that "whole areas of hard-core slums are becoming depopulated," leading to "blight and abandonment."

Thus, the black revolutionary strategists talking glibly of Black Power are finding the chickens flying the coop in the face of agitation, disorder, and crime. The black masses like it no more than the whites, and leave as soon as they can. Being normal people, all they want to escape from are the bad environments for rearing families and for decent living. This explains the desperation of the black agitators now seeking to foment racial incidents in smaller towns and even villages, as they see their notorious calling doomed to ultimate failure. The nation's news media misinterpreted the actions of the black lunatic fringe as symbolic of an entire group of twenty million people in every possible social stratum and spread across the continent. Those who knew and could have told them differently were ignored. The big foundations seem the last to learn — they're still trying to save the ghetto.

The big cities, despite vast expenditures of Government monies, are doomed to go, and along with them the breeding grounds of insurrection. With a vanishing tax base and multiplying problems of congestion, transportation, and pollution, they are rap-

idly becoming anachronistic. Decentralization and dispersal will continue, and along with them some of the urban curses will travel to the smaller cities and towns. This is already happening. We are becoming rapidly overpopulated, with all the attending problems.

Borrowing from the *apartheid* policies of South Africa, Floyd D. McKissick, former head of C.O.R.E., recently took an option on 1,810 acres in Warren County, North Carolina, along U.S. Highway One, an hour's drive from Durham, where the C.O.R.E. convention in 1964 voted to concentrate on subverting the black urban neighborhoods. Operating as Floyd B. McKissick Enterprises, the former spokesman for racial equality is now promoting racial separatism. — With straight face, the Tarheel lawyer declared: "We do not intend to adopt the white man's racism. The black man has been searching for his identity and destiny in the cities. He should be able to find it in the plains of Warren County."

As usual with all of these big black schemes, the "Goddam White Man" is expected to help push this *apartheid*. Before it departed, the Johnson Administration promised help in planning and developing the jim crow community, and the Nixon Administration has promised the same. Planners from Harvard, Columbia, M.I.T., and the University of North Carolina have promised expertise. It is estimated that it will take ten years to build this community of eighteen thousand. The erstwhile militant leader plans other

jim crow towns, so he is assured of continuous nurture, doubtless with foundation aid. This should satisfy a lot of Negro escapist; also whites who would bid them adieu.

However, there's nothing "revolutionary" about it. As Richard C. Wade has described in *Slavery In The Cities*, during chattel slavery there were little all-Negro communities on the outskirts of several Southern communities. Escapist colonies of fugitives from the plantations were established in Ontario before the Civil War and in various parts of the U.S.A. afterward. Notable ones are Mound Bayou, Mississippi; Boley, Oklahoma; Lawnside, New Jersey; and, at one time there were a score. There were also all-white towns where blacks could not light. Some had signs reading, "Nigger Read and Run. If You Can't Read, Run Anyhow!" I recall an encouraging sign on a hall opposite the Dothan, Alabama, railroad station announcing: "Entrance Ku Klux Klan Hall." This could not have been appealing to black tourists. However, in another Ku Klux Klan-ruled town back in the mid-Twenties the city had one of the most up-to-date Negro hospitals and an excellent Negro school, with fire escapes yet. There was, needless to say, no integration.

Indeed, one hears the word "integration" less and less these days. Actually, coloreds and whites are integrated all day long in offices, factories, hotels, restaurants, mills, and mines. Only at eventide are they "segregated" — and that is becoming less and less so

as blacks are acceptable in theaters and other places of public accommodation. Generally speaking, however, the whole world over, ethnic groups pursue their nocturnal way — separately — whether in Kazakhstan, Kentucky, or the Congo.

There still persists among the black extremists a wistful wish to get far away from white civilization (just at the time that all black governments in Africa are seeking to get closer and closer to it by loans, aid, credits, and investment; and, that some of them, like Ivory Coast and Gabon, have more white residents than formerly). The Peace Movement of Ethiopia, a back-to-Africa group, has even had a bill introduced in Congress, and now in the Senate Foreign Relations Committee, to further the escape from white culture and comforts.

About two years ago a group of 173 Chicago Negroes, calling themselves black Jews, settled on three hundred acres of snake-infested jungle, eleven miles from the town of Gbala, Liberia. Times are apparently tough all around, even in Africa. More than fifty of the emigrants have since returned to the purlieus of Chicago before their dough ran out and they became stuck like the others. With daring originality, the remainder, lacking needed tools and equipment, replenished their vanishing money by operating a night club and restaurant in Monrovia, the capital where white capitalism flourishes.

It is amusing to learn that the fugitive black agitator, Eldridge Cleaver, and several other Negro expatri-

ates in Havana — who fled to what they supposed was freedom — are learning what U.S. colored travelers in the Caribbean learned about that metropolis long before Castro came to power. Cleaver is virtually confined to his apartment. A Black Panther expatriate said: "We think there's racial discrimination in Cuba. It's a peculiar kind of racial discrimination. In some ways its comparable to attitudes in the United States. White Cubans have a subconscious conspiracy to maintain control of the island . . . We have seen people here lagging in the revolution of the mind."

Well, it's an old story. This writer detailed it in a long article in *The Pittsburgh Courier* in July of 1948. Then, even wealthy and prominent colored, like the Commanding General of the Havana garrison, were excluded from all the numerous social clubs around which all Cuban social life revolves. They had had to organize their own social club. There were *two* carnivals, a colored and a white one. Blacks could be motormen on street cars but not conductors (who handled the money). There were no discernably colored clerks in the big stores. And so it went. It was little different in Puerto Rico and South America.

It is a brave American Negro who — with education, money, and training — emigrates to Africa and its mare's nest of tribal animosities. He soon discovers (as did many black Peace Corpsmen) that there's no hidin' place; that America is the best place after all.

— GEORGE S. SCHUYLER ■ ■

The Review of the NEWS

FALK

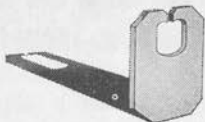
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IN THE SUPREME COURT

STATE OF MINNESOTA

No. 52088

Leo Zurn,

Plaintiff,

vs.

First National Bank of Minneapolis,

Defendant-Petitioner,

and

Roger D. Derrick,

Defendant.

ORDER TO SHOW CAUSE WHY

JEROME DALY AND

MARTIN V. MAHONEY

SHOULD NOT BE HELD IN

CONSTRUCTIVE CONTEMPT OF

THE SUPREME COURT OF THE

STATE OF MINNESOTA

Leo Zurn,

Plaintiff-Respondent,

vs.

Roger D. Derrick,

Defendant,

and

Northwestern National Bank of
Minneapolis,

Defendant-Petitioner.

1. Pursuant to Motion of Petitioner Northwestern National Bank of Minneapolis and based on the attached Affidavit of Gordon G. Busdicker and all of the documents, pleadings and files herein,

IT IS HEREBY ORDERED

that on the ^{21st} ~~18th~~ day of August 1969, at 2 p.m., Messrs. Jerome Daly and Martin V. Mahoney shall appear before this Court to show cause why they should not be held in constructive contempt of this Court as a result of facts arising out of the above-captioned action and set forth in the attached Affidavit of Gordon G. Busdicker.

42174

*Respondents 4 L L
emo 2/6/70*

2. IT IS FURTHER ORDERED that Messrs. Daly and Mahoney shall be personally served with a copy of this Order and the attached Affidavit on or before August ¹⁶~~15~~, 1969.

DATED: August 12, 1969.

BY THE COURT:

/s/ ROBERT J. SHERAN
Justice

IN THE SUPREME COURT
STATE OF MINNESOTA

No. 42088

Leo Zurn,

Plaintiff,

VS.

First National Bank of Minneapolis,

AFFIDAVIT OF FACTS

Defendant-Petitioner,

CONSTITUTING

and

CONSTRUCTIVE CONTEMPT

Roger D. Derrick,

Defendant.

Leo Zurn,

Plaintiff-Respondent,

vs.

Roger D. Derrick,

Defendant,

and

Northwestern National Bank of
Minneapolis,

Defendant-Petitioner.

STATE OF MINNESOTA:

: SS

COUNTY OF HENNEPIN:

GORDON G. BUSDICKER, being first duly sworn on oath, deposes and says that:

1. I am the attorney for Northwestern National Bank of Minneapolis (hereinafter "Northwestern"), defendant-petitioner in the captioned proceeding.

2. On or about July 3, 1969, Northwestern was served with a Summons and Complaint in the above-captioned action. The Summons demanded an appearance by Northwestern on Friday, July 11, 1969, at 7:00 p.m. in the Court House of Justice of the Peace, Martin V. Mahoney, in Credit River Township, Scott County, a

true and correct copy of said Summons and Complaint being attached hereto as "Exhibit A" and hereby made a part hereof. The Complaint in said action sought a declaratory judgment as to what was sufficient legal tender in payment and discharge of an alleged debt for service performed on an automobile owned by Roger D. Derrick and also sought judgment that defendant-petitioner Northwestern, which had loaned money to Roger D. Derrick and was the holder of a conditional sales contract on said vehicle, has no right, title, lien, interest or mortgage on said automobile. The Complaint also sought a money judgment against defendant Roger D. Derrick in the sum of \$680.

3. Thereafter, defendant-petitioner Northwestern filed a Petition for Writ of Prohibition with this Court. Upon motion and after hearing, the Court, by the Honorable C. Donald Peterson, Associate Justice, issued an Order staying all further proceedings in the Justice Court of Martin V. Mahoney, Justice of the Peace, Township of Credit River, County of Scott, State of Minnesota, until further order of this Court. Said Order also quashed the Summons in the aforementioned action. Copies of said Petition and Order are attached hereto as "Exhibit B" and "Exhibit C", respectively, and are hereby made parts hereof.

4. Copies of said Petition and Order were personally served on Jerome Daly and Martin V. Mahoney on the afternoon of July 11, 1969.

5. On July 11, 1969, contrary to the Order issued by the Supreme Court of the State of Minnesota, and after service of the aforementioned Order, Jerome Daly proceeded to have the captioned action brought on for hearing before Justice of the Peace, Martin V. Mahoney, for judgment by default. Thereafter, on or about July 14, 1969, said Martin V. Mahoney, individually

and, on information and belief, in conspiracy with Jerome Daly, caused to be issued Findings of Fact, Conclusions of Law and Judgment and Memorandum in the captioned action, a copy of said Findings, which were first served on affiant on or about August 5, 1969, being attached hereto as "Exhibit D" and hereby made a part hereof.

6. Said Findings of Fact, Conclusions of Law and Judgment are in direct contravention of the previous Order of this Court, constitute extreme harassment of defendant-petitioner Northwestern, and, on information and belief, will be utilized by Martin V. Mahoney and Jerome Daly to the further detriment of Northwestern.

7. As a result of the foregoing acts of Messrs. Daly and Mahoney, Northwestern has been subjected to undue harassment and expense. Said expense includes attorneys' fees and expenses, filing fees, loss of value of the aforementioned automobile by depreciation and the value of employee time.

Further, Affiant saith not.

GORDON G. BUSDICKER
Gordon G. Busdicker

SWORN TO BEFORE ME and subscribed in my presence this
12th day of August 1969.

Notary Public

(SEAL)

My Commission Expires:

STATE OF MINNESOTA
COUNTY OF SCOTT
TOWNSHIP OF CREDIT RIVER

IN JUSTICE COURT
MARTIN V. MAHONEY
JUSTICE OF THE PEACE

Leo Zurn,

Plaintiff,

vs.

SUMMONS

Northwestern National Bank of
Minneapolis and Roger Derrick,

Defendants.

THE STATE OF MINNESOTA, UNITED STATES OF AMERICA, TO THE SHERIFF OR
ANY CONSTABLE OF THE STATE OF MINNESOTA; or PLAINTIFF'S ATTORNEY

SIR:

Pursuant to the authority vested in me by the Declaration of Independence,
The Northwest Ordinance of 1787, The Constitution of the United States,
The Louisiana Purchase Treaty of April 30, 1803 and the Constitution of
the State of Minnesota, You are hereby Commanded to Summon the Defendants
above named to be and appear before the undersigned and to file your Answer
herein or otherwise plead to and before the undersigned, one of the
Justices of the Peace in and for said County on July 11, 1969 at 7:00 P.M.
at my Court House located on my farm in the Farm Yard thereof in Section
9, Township 114 North, Range 21 West, Credit River Township, Scott County,
Minnesota, located on the East side of County Road 68 2 Miles N.E. of
the Township Hall in a Civil Action wherein Plaintiff claims and asks for
relief prayed for in the Complaint dated June 30, 1969 which is attached hereto
and made a part hereof by reference, and have you then and there this Summons
and Complaint with proof of service thereupon.

Given under my hand and seal this 1st day of July, 1969, at Credit River
Township, Scott County, Minnesota.

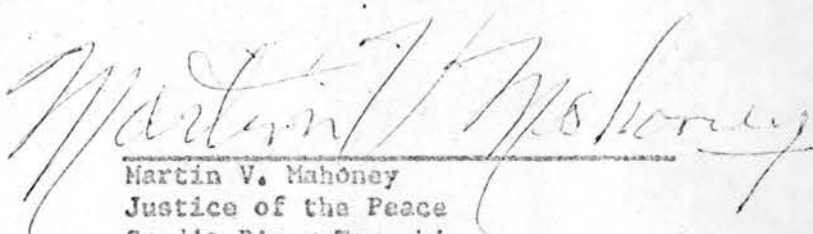

Martin V. Mahoney
Justice of the Peace
Credit River Township
Scott County, Minnesota

EXHIBIT A

STATE OF MINNESOTA
COUNTY OF SCOTT
TOWNSHIP OF CREDIT RIVER

IN JUSTICE COURT
MARTIN V. MAHONEY
JUSTICE OF THE PEACE

Leo Zurn,

Plaintiff,

vs.

COMPLAINT

Roger Derrick and
N.W.National Bank of Minneapolis,
Defendants.

Plaintiff, for his cause of action herein states and alleges:

1.

That Plaintiff, at the request of Roger Derrick, the legal owner and possessor of a certain 1967 Ford 2 Door Mustang Automobile bearing Minn. License Plates 5 DT 676 and serial No. 7fo2c212104, did on or about April 4, 1969 and thereafter expend Labor, Skill and Material in the repair, caring for, keeping and storing the same in the reasonable sum of \$6.00

II.

That Plaintiff is in actual possession of said CAR and claims a Mechanics lien thereon; that Plaintiff has made demand upon said Derrick for payment in Gold and Silver Coin, the lawful money of the United States which demand for payment is wholly refused by said Roger Derrick.

XII.

That Defendant Northwestern National Bank of Minneapolis claims a purchase money mortgage and lien against said car in the sum of about \$1,900.00 or thereabouts. That in obtaining said purported lien said Bank did, upon the general ledger books of said Bank, create out of nothing, by bookkeeping entry all the money and credit that it used as the money consideration for the purchase of said car and the acquisition of said Note and mortgage from Derrick. That said bookkeeping created money and credit is in contemplation of Law a forgery, is not a lawful consideration with which to support said Note and Mortgage and the same is therefore void.


IV.

That Defendant Northwestern National Bank of Minneapolis is in the practice, for many, many years, of forging and creating money and credit upon the books of said Bank contrary to law and by virtue of said activity claims some right, title, interest or lien in and to said Automobile whereas it has none.

Wherefore, Plaintiff demands Judgment as follows:

1. Judgment against Defendant Roger Derrick in the sum of \$680.⁰⁰
2. Declaratory Judgment declaring what, specifically constitutes a legal tender in the payment and discharge of the Debt.
3. Judgment that said Automobile be sold at a Judicial Sale in the manner prescribed by Law.
4. Judgment that the Defendant Northwestern National Bank of Minneapolis has no right, title, lien, interest or mortgage on said Automobile.
5. Costs and Disbursements against any Defendant appearing and answering herein.

June 30, 1969



Jerome Daly
Plaintiff's Attorney
28 East Minnesota Street
Savage, Minnesota

VERIFICATION

STATE OF MINNESOTA


COUNTY OF SCOTT

Leo Zurn, being first duly sworn deposes and states that he is the Plaintiff herein, that he has read the foregoing Complaint, and the same is true to the best of his knowledge information and belief.


Leo Zurn

Subscribed and sworn before me this

1st Day of July 1969


Jerome Daly

Notary Public Dakota County, Minnesota My commission Expires January 15, 1973

STATE OF MINNESOTA.

IN SUPREME COURT

Northwestern National Bank
of Minneapolis,

Defendant-Petitioner,

-vs.

Leo Zurn,

Plaintiff-Respondent,

and

Honorable Martin V. Mahoney,

Respondent,

and

Jerome Daly, Esq.,

Respondent.

PETITION FOR

WRIT OF PROHIBITION

TO: THE SUPREME COURT OF THE STATE OF MINNESOTA:

Petitioner, NORTHWESTERN NATIONAL BANK OF MINNEAPOLIS,
requests a Writ of Prohibition on the following grounds:

1. On Thursday, July 3, 1969, there was served on George C. Adam, personal banking officer of Petitioner, a Summons and Complaint in the form attached, said Summons issuing out of Justice Court, Martin V. Mahoney, Justice of the Peace, and signed by Martin V. Mahoney.

2. The issuance and service of said Summons is invalid and in violation of statute and contrary to law for the following reasons:

a) Said Summons was personally served on defendant in the City of Minneapolis, County of Hennepin, contrary to the provisions of Minnesota Statutes §531.04, which prohibit service outside of the county in which it is issued (in the instant case, Scott County) except pursuant to the provisions of Minnesota Statutes §532.29, which require a continuance of proceedings for a period

EXHIBIT B

not exceeding 20 days, which continuance has not been provided for;

b) The issuance of said Summons is contrary to the provisions of Minnesota Statutes §531.03 for the reason that it is returnable at 7 p.m.;

= c) The issuance of said Summons is contrary to the provisions of Minnesota Statutes §531.03 for the reason that said Summons does not contain a statement of the amount claimed by plaintiff;

d) The issuance of said Summons is contrary to the provisions of Minnesota Statutes §531.04 for the reason that it was personally served upon Northwestern National Bank of Minneapolis in the City of Minneapolis, a city having a population of in excess of 200,000;

e) The issuance of said Summons and the maintenance of the action contemplated therein is beyond the jurisdiction of Justice Court and contrary to the provisions of Minnesota Statutes §530.05.

3. Petitioner is one of a number of banking institutions which have been subjected to repeated harassment by Respondents, both collectively and individually, and forced repeatedly to defend actions involving, as does the instant proceeding, allegations that the Federal Reserve Act is unconstitutional, that Federal Reserve Notes are not legal tender and that such banking institutions are in some undefined manner guilty of unlawfully creating money and credit. Petitioner submits that further harassment of the type involved herein should be prohibited.

WHEREFORE, Petitioner prays for a Writ of Prohibition quashing the Summons heretofore issued by Justice of the Peace Martin V. Mahoney and restraining respondents from attempting

further proceedings in Justice Court outside of the jurisdiction thereof and for such other relief as may be just and equitable.

DATED: July 11, 1969.

FAEGRE & BENSON

By /s/ Gordon G. Busdicker
Gordon G. Busdicker

1300 Northwestern Bank Bldg.
Minneapolis, Minnesota 55402
FEderal 8-7571

Attorneys for Defendant-Petitioner

STATE OF MINNESOTA

IN SUPREME COURT

Northwestern National Bank
of Minneapolis,

Defendant-Petitioner,

vs.

Leo Zurn,

Plaintiff-Respondent,

and

Honorable Martin V. Mahoney,

Respondent,

and

Jerome Daly, Esq.,

Respondent.

ORDER

Upon the Petition of Northwestern National Bank of Minneapolis for a Writ of Prohibition, IT IS HEREBY ORDERED:

1. All further proceedings in Justice Court, Martin V. Mahoney, Justice of the Peace, Township of Credit River, County of Scott, State of Minnesota, are stayed until further order of this Court.

2. The Summons heretofore issued in the action entitled Leo Zurn v. Northwestern National Bank of Minneapolis and Roger Derrick, brought in Justice Court, Township of Credit River, County of Scott, State of Minnesota, Martin V. Mahoney, Justice of the Peace, be and hereby is quashed and set aside.

3. Respondent Martin V. Mahoney be and hereby is directed to vacate and set aside the aforementioned Summons and to take no further proceedings in the aforementioned action in Justice Court until further order of this Court.

4. Petitioner shall forthwith serve copies of this Order on Jerome Daly, attorney for Plaintiff-Respondent Leo Zurn, and on Martin V. Mahoney, Justice of the Peace.

EXHIBIT C

5. The Petitioner shall file and serve a written brief and such affidavits as may be appropriate on or before *August 1*, 1969. Respondents shall serve and file an answer to the petition, a written brief, and such affidavits as may be appropriate on or before *August 18* 1969. *No oral argument will allowed.*

DATED: July 11, 1969.

THE SUPREME COURT OF
THE STATE OF MINNESOTA

By */s/ C. Donald Peterson*
C. Donald Peterson
Associate Justice

UNITED STATES OF AMERICA

STATE OF MINNESOTA
COUNTY OF SCOTT
TOWNSHIP OF CREDIT RIVER

IN JUSTICE COURT
MARTIN V. MAHONEY
JUSTICE OF THE PEACE

Leo Eurn, Plaintiff,

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND JUDGMENT

vs.

Defendants,
Northwestern National Bank of
Minneapolis and Roger Derrick,

The above entitled action came on before the Court before the undersigned on July 11, 1969 at 7:00 P.M. on said day. Jerome Daly Esq. appeared on behalf of Plaintiff. There was no appearance on behalf of either Defendant. At 5:30 P.M. on July 11, 1969 the undersigned was served with a Petition for Writ of Prohibition directed to the Supreme Court of Minnesota and an Order purported to be signed by C. Donald Peterson, Associate Justice of the Supreme Court of Minnesota. The unverified Petition and Order are attached hereto by copy and made a part of these findings.

The Court waited one hour and then proceeded to take the testimony of Plaintiff's Attorney Jerome Daly on his application for a Judgment by default.

It appears that personal service of the Summons and Complaint was made upon both Defendants on July 3, 1969. The Bank was served by serving one of its Banking Officers' George C. Adams. Now therefore upon all the files, records and proceedings herein and upon the testimony and evidence received, The Court makes the following findings of fact:

FINDINGS OF FACT

1. That at all times herein material the Defendant Roger Derrick is the legal owner of a certain 1967 Ford 2 door Mustang Automobile bearing Minnesota License Plates No. 5 DT 676 and Serial No. 7F02C212104.

2. That in the year 1967 the Defendant Northwestern National Bank of Minneapolis did create money and credit on the books of their Bank, by false bookkeeping entry, by which the said Bank did acquire a purported purchase money mortgage on said automobile in a sum in excess of \$2,000.00 and filed said mortgage. That the Defendant Roger Derrick executed a purchase money mortgage back to said bank along with a Note. That the act of creating said money and credit upon the books of said Bank is unlawful and void for any purpose and does not constitute a lawful consideration to support said Note and Mortgage.

3. That on or about April 4, 1969 Plaintiff, at the request of Defendant Roger Derrick performed and expended certain Labor, Skill and Material in the repair, preservation and storage of said automobile in the sum of \$680.00, which sum is the reasonable value of said repair and storage charges.

4. That the Defendant Northwestern National Bank claims some right, title or interest in said automobile whereas it has none.

5. That said Defendant Bank is in the practice, for many years, of forging and creating money and credit upon the Books of said Bank contrary to Law along with the Federal Reserve Bank of Minneapolis. That both Banks are United States Corporations. That the creation of money and credit upon the books of said Banks and the honoring and issuing of checks, bank drafts and notes for the said falsely created money and credit is not authorized by the Constitution of the United States, The Constitution of Minnesota, The N.W.

EXHIBIT D

Ordinance of 1787, The Treaty of Cession of Louisiana of April 30, 1803 and the Common Law relative to the validity of Consideration for Contracts and Notes, and is therefore null and void.

6. The Court further finds that the Standard Silver Dollar coined under the Act of February 28, 1878, Ch 20, 20 Statutes 25, 26 containing 412 1/2 grains Troy, Standard Silver constitutes the Legal Tender Silver Dollar in payment of Debt. Further that the Act of Congress of February 12, 1873, 17 Statutes 426 fixing the Standard Gold Dollar at 25.8 grains of gold, 9/10 fine sets the content of weights and measures for the Standard Legal Tender Gold Dollar in the United States.

NOW THEREFORE, THE COURT MAKES THE FOLLOWING CONCLUSIONS OF LAW AND JUDGMENT HEREIN:

1. That Plaintiff is entitled to and is granted Judgment against Roger Derrick, Defendant herein, in the sum of \$680.00.

2. It is further Ordered, adjudged and decreed that the Standard Legal Tender Silver Dollar is the one coined under the Act of Congress of February 28, 1878 and all acts prior thereto containing at least 412 1/2 grains of Silver Troy weight; further that the Standard Gold Dollar which is legal Tender is the one coined under Act of Congress of February 12, 1873 referred to above containing 25.8 grains of Gold Troy weight, 9/10 fine.

3. It is further Ordered, Adjudged and Decreed that the Defendant Northwestern National Bank of Minneapolis has no right, title or interest in or lien on on the certain 1967 Mustang Automobile described herein.

4. It is further Ordered that said 1967 Mustang be sold at a Judicial Sale in the manner prescribed by law to satisfy the mechanics lien of Plaintiff unless Plaintiff satisfies this Judgment before said sale with legal tender gold and silver coin.

This Judgment is given pursuant to the authority vested in me pursuant to the Declaration of Independence, The Constitution of the United States, The Northwest Ordinance of 1787, The Treaty of Cession of Louisiana of April 30, 1803 and the Constitution of Minnesota, pursuant to Judicial proceedings according to the course of the Common Law, under my hand and seal this 14th day of July, 1969.

BY THE COURT

Martin V. Mahoney
MARTIN V. MAHONEY
JUSTICE OF THE PEACE
CREDIT RIVER TOWNSHIP
SCOTT COUNTY, MINNESOTA
UNITED STATES OF AMERICA

MEMORANDUM

The publication "THE DALY EAGLE" which contains a copy of this Court's decision of February 6, 1969 is attached hereto and made a part of these findings.

This Court has had occasion to rule upon the same questions at that time and has been shown no reason or facts upon which a change of the conclusions reached herein should be in any way changed.

The Petition for prohibition which is attached hereto is not verified. It is directed to the Supreme Court of Minnesota but no Writ of Prohibition was issued by the Clerk of the Supreme Court pursuant to MSA 480.04 and Rule 19 of the Rules of Practice of the Supreme Court of Minnesota. Supreme Court Justice Peterson may Order the Clerk of the Supreme Court to issue a Writ of Prohibition but this was not done. The Justices' personal Order to this Court is outside of his authority and void and of no effect.

Nothing in the Constitution of Minnesota restricts or limits the jurisdiction of this Court. This Court is proceeding according

to the State and Federal Constitutions and the N.W. Ordinance of 1787. Justice is to be granted promptly and without delay, completely and without denial freely and without purchase, conformable to the laws.

Minnesota Statutes 531.04, 532.29, 531.03 and 530.05 are unconstitutional and void as they tend to unreasonable and unconstitutionally restrict the establishment of Justice by the People thru their State and Federal Constitutions. This Court proceeded according to the Course of the Common Law. No application for relief was made to this Court by the Defendants.

This Court, or rather the undersigned is not on a salary and is not dependent upon the Federal Reserve and National Banking fraud for its sustenance and therefore, is not motivated by self interest in any way shape or form. Any Judge who is on a salary paid by this illegal money and banking system is disabled by self interest to that extent and has no Jurisdiction. This included Justice Peterson of the Supreme Court. See Payne vs. Lee 222 Minnesota 269.

This memorandum is made a part of the above decision.

July 14, 1969

BY THE COURT

Martin V. Mahoney
MARTIN V. MAHONEY
JUSTICE OF THE PEACE
CREDIT RIVER TOWNSHIP
SCOTT COUNTY, MINNESOTA

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STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

566224

Faye V. Peterson,)
)
Plaintiff,)
)
vs.)
)
Palmer A. Peterson and)
Paul L. Halvorsen, indi-)
vidually and as Trustee,)
)
Defendants.)

56 6 224
AFFIDAVIT OF SERVICE

42174

PETITIONER'S EXHIBIT 22
2/12/70 L.M.F.

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Chester Hausfeld, being first duly sworn, on oath deposes and says: that on the 7th day of December, 1964, he served the Court's Amended Findings of Fact, Conclusions of Law and Order for Judgment dated December 4, 1964, upon Palmer A. Peterson, one of the defendants above named, personally, at 7856 Portland Avenue, Bloomington, Hennepin County, Minnesota, by handing to and leaving with said Palmer A. Peterson, personally, a true and correct copy thereof and displaying to him the signature of Judge Irving R. Brand on the original Order for Judgment.

Affiant further says that at the same time and place, he served the Amended Judgment and Decree dated December 7, 1964, upon defendant Palmer A. Peterson by handing to and leaving with him a certified copy thereof.

Affiant further states that at the same time and place, he served the Notice of Filing of said Amended Findings of Fact, Conclusions of Law and Order for Judgment, and Notice of Motion, dated December 7, 1964, by handing to and leaving with said Palmer A. Peterson a true and correct copy thereof.

Chester Hausfeld

Subscribed and sworn to
before me this 10 day
of December, 1964.

Betty E. Egertson

BETTY E. EGERTSON
Notary Public, Hennepin County, Minn.
Commission Expires April 29, 1965.



STATE OF MINNESOTA, COUNTY OF HENNEPIN
Certified to be a true and correct copy of the
original on file and of record in my office.

JAN - 5 1970

GERALD R. NELSON, Clerk of District Court

BY R. J. Anderson Deputy

STATE OF MINNESOTA
COUNTY OF HENNEPIN

566224

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

Faye V. Peterson,)
)
Plaintiff,)
)
vs.)
)
Palmer A. Peterson and)
Paul L. Halvorsen, indi-)
vidually and as Trustee,)
)
Defendants.)

566224
NOTICE OF FILING FINDINGS OF
FACT, CONCLUSIONS OF LAW AND
ORDER FOR JUDGMENT AND NOTICE
OF HEARING

TO: THE ABOVE NAMED DEFENDANTS, AND EACH OF THEM, AND TO DESMOND
F. PRATT, THEIR ATTORNEY.

YOU WILL PLEASE TAKE NOTICE that on the 4th day of
December, 1964, Hon. Irving R. Brand, Judge of the above court,
made and filed his Amended Findings of Fact, Conclusions of Law
and Order for Judgment, with a Memorandum attached which was
made a part thereof, a true copy of all of which is attached
hereto and hereby served upon you.

You will also take notice that on the 15th day of
December, 1964, at 11:00 o'clock A.M., or as soon thereafter as
counsel may be heard, before the said Court, the plaintiff will
apply to the Court for its orders as follows:

1. Further amending the Findings of Fact, Conclusions
of Law and Order for Judgment as follows:

- a. Determining the nature and value of all
trust assets now held by the defendant,
Paul L. Halvorsen, under the purported
trust under the instrument dated January
30, 1961.

- b. Awarding to the plaintiff all of the trust assets so held.
- c. Awarding to the attorneys for the plaintiff, reasonable attorneys' fees, and providing for the manner and time of their payment.

2. For the relief set forth in plaintiff's Notice of Motion dated November 3, 1964, and the Court's Order to Show Cause dated November 3, 1964, as follows:

- a. Adjudging the defendant, Palmer A. Peterson, to be in contempt of court for failure to sign before a Notary Public letters which are in substance similar to or identical with the proposed letters attached to plaintiff's Notice of Motion of June 30, 1964, said letters authorizing the Union Bank of Switzerland and the First National City Bank of New York to furnish to the Court information concerning a particular transaction between defendant, Palmer A. Peterson, and said banks, all in violation of the Order made by this Court in open court to the said defendant personally on August 13, 1964, and contained in the Court's written Order dated August 14, 1964.
- b. Adjudging the defendant Palmer A. Peterson to be in contempt of court for failure to set up and maintain an accurate system of accounting to truly reflect all income, expenses and net income, including: a record book in which is recorded each day's income, whether in cash or checks, and a record book of accounts showing all disbursements and the purpose for which each disbursement is made so that it can be ascertained with reasonable certainty whether the disbursement is a business expense or personal expense, all in violation of the Court's Order of October 24, 1963.
- c. Adjudging the defendant Palmer A. Peterson to be in contempt of court for failure to bill out to patients, as soon as possible, all sums due and owing as reflected by his accounts receivable records, in violation of the Court's Order of January 14, 1964.

- d. Adjudging the defendant Palmer A. Peterson to be in contempt of court for failure to make payments of permanent alimony as required by, and in violation of the Court's Order for Judgment dated August 17, 1964, and the Decree of Divorce herein.
- e. Adjudging the defendant Palmer A. Peterson to be in contempt of court for failure to maintain health and accident insurance and life insurance as required by the Court's Order for Judgment of August 17, 1964, and the Decree of Divorce herein.
- f. Directing that all of said defendant's accounts receivable be sequestered and that said accounts be administered and collected by an independent agency under direction of the Court's Services Department as receiver under the provisions of M.S.A. 518.24.
- g. Directing that all future payments of alimony, support money and attorneys' fees be made through the Department of Court Services of Hennepin County, Minnesota.

3. Adjudging the defendant Palmer A. Peterson to be in contempt of court for failure to make payments of permanent alimony due on and after November 3, 1964, in the amounts required by the Court's Order for Judgment dated August 17, 1964, and the Decree of Divorce herein.

4. Adjudging the defendant Palmer A. Peterson to be in contempt of court for failure to appear on November 17, 1964, or at any subsequent date, before the Court, in compliance with the Court's Order to Show Cause dated November 3, 1964, and as required therein.

5. For such other and further relief as the Court may feel is just and equitable.

Said Motions will be made upon all the files, records and proceedings herein and upon such further showing, and the testimony of the parties, as may be produced at the time of said hearing.

Dated: December 7, 1964

JAMES P. RORRIS
1925 Rand Tower
Minneapolis, Minnesota 55402

and

DYGERT & GUNN

By Robert W. Dygert
990 Northwestern Bank Bldg
Minneapolis, Minnesota 55402

Attorneys for Plaintiff

STATE OF MINNESOTA, COUNTY OF HENNEPIN
Certified to be a true and correct copy of the
original on file and of record in my office.

JAN - 5 1970

GERALD R. NELSON, Clerk of District Court

BY R. J. Anderson Deputy

STATE OF MINNESOTA
COUNTY OF HENNEPIN
FAYE V. PETERSON,

566224

Petitioner Epi. 33
DISTRICT COURT
FOURTH JUDICIAL DISTRICT

PLAINTIFF,

AGAINST,

PALMER A. PETERSON and
PAUL L. HALVERSON
INDIVIDUALLY AND AS TRUSTEE,

AMENDED
JUDGMENT AND DECREE

DECEMBER 7, 1964

DEFENDANTS.

The above entitled action having been regularly placed upon the calendar of the above named Court for the September A. D. 1962 General Term thereof, came on for trial before the Court on the 18th day of December, A. D. 1962; and the Court, after hearing the evidence adduced at said trial and being fully advised in the premises, did on the 17th day of August, 1964, duly make and file its findings and order for judgment herein; AND THEREAFTER, on the 4th day of December A. D. 1964, the Court did make and file its order amending said judgment.

Now, pursuant to said amended order and on motion of JAMES P. RORRIS and ROBERT W. DYGERT, attorneys for the plaintiff, it is hereby adjudged and decreed:

That the judgment and decree entered herein on the 19th day of August A.D. 1964, be, and hereby is amended to read as follows, to-wit:

1. That the bonds of matrimony heretofore existing between plaintiff and defendant be, and the same are hereby dissolved, and said parties absolutely divorced from each other.

2. That the permanent custody of the minor children of the parties, PALMER BRENT PETERSON, SHERI FAYE PETERSON and BRADFORD LEE PETERSON be, and hereby is granted to the plaintiff with reasonable visitation rights in defendant PALMER A. PETERSON, all subject to supervision of the Hennepin County Department of Court Services.

3. That defendant, PALMER A. PETERSON pay to plaintiff the sum of Three Hundred Fifty (\$350.00) Dollars per month as permanent alimony.

4. That the defendant, PALMER A. PETERSON pay to plaintiff as reasonable support for the children of plaintiff and defendant PALMER A. PETERSON the sum of Five Hundred (\$500.00) Dollars per month.

5. That the plaintiff hereby have all right, title and interest in and to the homestead located at 5117 Luverne Avenue, Minneapolis, Minnesota, free and clear of any claim or interest therein by defendant PALMER A. PETERSON, the legal description as follows, to-wit:

Lot 22, Block 3, Tarrymore Park, according to the plat on file and of record in the office of the Registrar of Titles, Hennepin County.

6. That the plaintiff hereby have title to the household goods and furnishings located in said house, free and clear of any claim or interest therein by said defendant, PALMER A. PETERSON.

7. That plaintiff hereby have the title to the 1950 Oldsmobile, and said defendant, PALMER A. PETERSON hereby have title to the 1962 Buick automobile.

8. That the defendant, PALMER A. PETERSON keep in full force and effect the two life insurance policies mentioned hereinabove, namely the Aid Association for Lutherans policy and the National Service Life Insurance policy; said defendant, PALMER A. PETERSON shall not revoke, terminate, modify or otherwise adversely affect the rights of plaintiff or the children of the parties under the trust created under the insurance trust agreement dated August 22, 1958.

9. That said defendant, PALMER A. PETERSON maintain in full force and effect the health and accident policy hereinabove mentioned.

10. That the plaintiff have and recover of the defendant, PALMER A. PETERSON, the sum of Three Thousand Three Hundred Ninety-five (\$3,395.00) Dollars.

11. That with respect to the accounts receivable as of December 31, 1963, in connection with defendant PALMER A. PETERSON'S practice of medicine, the Court reserves jurisdiction to make a disposition of the amounts collected thereon, either by way of an allowance of additional alimony to plaintiff and additional support money for the children of the parties or by way of an award of property to plaintiff, or both.

12. That the Court reserves jurisdiction to make further orders concerning any other property which defendant PALMER A. PETERSON may own which was not proven at the trial of this matter.

13. That the Memorandum on file herein be, and hereby is, made a part hereof.

14. That the Court hereby orders that a hearing be held before the undersigned on December 15, 1964, at 11:00 A. M. or as soon thereafter as the matter can

be heard, with respect to the following:

- a. That the nature and value of the trust assets now held by defendant PAUL L. HALVERSON and the distribution to be made thereof.
- b. That attorney's fees hereby be allowed to plaintiff.

BY THE COURT:

PHILIP C. SCHMIDT
Clerk of District Court

By

BC Arthur Deputy

STATE OF MINNESOTA, COUNTY OF HENNEPIN
Certified to be a true and correct copy of the
original on file and of record in my office.

NOV - 1 1966

GERALD R. NELSON, Clerk of District Court

By

BC Arthur Deputy

566224

33

Petitioner's Exhibit

FILED

JUL 4 1933

PHILIP C. SCHMIDT
Clerk of Dist. Ct., Henn. Co.

E. S. Youngdale
Deputy

United States District Court

FOR THE

DISTRICT OF OREGON

CIVIL ACTION FILE NO. 69-735

ERVIN HARING,

Plaintiff

v.

FEDERAL RESERVE BANK OF SAN FRANCISCO, CALIFORNIA,
PORTLAND, OREGON BRANCH,

Defendant

SUMMONS

To the above named Defendant :

You are hereby summoned and required to serve upon

William C. Grant
202 Mohawk Building
Portland, Oregonand Jerome Daly
28 East Minnesota St.
Savage, Minnesota

plaintiff's attorney's, whose address

an answer to the complaint which is herewith served upon you, within **twenty** days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

GEORGE E. JUBA

by

Clerk of Court.

M. Hui

Deputy Clerk.

Date: Dec. 22, 1969

- Del to Marshall

[Seal of Court]

Note.—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

Petitioners' 424 42174
2/10/70
lmj

U. S. DISTRICT COURT
DISTRICT OF OREGON
FILED

DEC 22 1969

GEORGE E. JUBA, Clerk
By *[Signature]* DEPUTY

1 William C. Grant
2 202 Mohawk Building
3 Portland, Oregon 97204
4 Telephone: 226-2838
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Attorney for Plaintiff,

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ERVIN HARING,

Plaintiff,

-VS-

FEDERAL RESERVE BANK OF SAN
FRANCISCO, CALIFORNIA,
PORTLAND, OREGON BRANCH,

Defendant.

Civil No. *69-735*
C O M P L A I N T

Plaintiff, for his cause of action herein, states and alleges:

I.

That plaintiff is a resident of the City of Portland, State
of Oregon, United States of America.

II.

That defendant is a private corporation, incorporated under
and by virtue of the laws of the United States of America, with a
branch bank in Portland, Oregon.

III.

That this is a case in law arising under the Constitution
and Laws of the United States.

IV.

That on December 22, 1969, plaintiff presented a \$100.00
Federal REserve Bank Note bearing Serial No. L 13312243 A drawn on and
issued by the Federal Reserve Bank of San Francisco, California, con-
taining the following language and promise to pay in part; "Federal

1 Reserve Bank of San Francisco, California will pay to the Bearer on
2 Demand One Hundred Dollars. This Note is Legal Tender for all Debts,
3 Public and Private and is redeemable in Lawful money at the United
4 States Treasury, or at any Federal Reserve Bank." Said Note was pre-
5 sented to E. A. Thomas, manager of the said Federal Reserve Bank at
6 its Branch Office at Portland, Oregon, and demand was made for 100
7 Dollars in Gold and Silver Coin, whereupon, said Manager stated that
8 said Bank was not able to redeem said Note in Gold and Silver Coin;
9 the Coinage of the United States.

10 V.

11 That the defendant refused to redeem said Federal Reserve
12 Note in Gold and Silver Coin.

13 VI.

14 That only Gold and Silver Coin is lawful money in the
15 United States.

16 VII.

17 That the inability of said defendant to redeem in Gold and
18 Silver Coin is openly avowed and defendant is wilfully and fraudulently
19 circulating its Notes with full knowledge that they are not redeemable
20 in lawful money.

21 VIII.

22 That the defendant is engaged in fraud upon the American
23 people and upon plaintiff in its unlawful activity in the circulation
24 and tendering of dishonored and depreciated evidences of debt to
25 plaintiff with intent to defraud.

26 IX.

27 That plaintiff is damaged specially in the sum of \$100.00
28 and generally in the sum of \$100,000.00 because of the fraud and deceit
29 of defendant, its agents and servants.

30 X.

31 That because of the wilful fraud and malice of defendant,
32 its agents and servants, plaintiff is entitled to punitive damages in

1 the sum of \$100,000.00.

2 WHEREFORE, plaintiff demands judgment against defendant in
3 the sum of \$100.00 as and for special damages; \$100,000.00 as and for
4 general damages, and \$100,000.00 as and for punitive damages, and
5 costs.

6 DATED December 22, 1969.

7
8 Ervin Haring
9 Ervin Haring
10 Plaintiff

11 Jerome Daly
12 Jerome Daly
13 28 East Minnesota Street
14 Savage, Minnesota
15 Tel. 612-890 2274

16 William C. Grant
17 William C. Grant
18 202 Mohawk Building
19 Portland, Oregon 97204
20 Tel. 226-2838

21 Attorneys for Plaintiff

22 STATE OF OREGON)
23) ss.
24 County of Multnomah)

25 I, Ervin Haring, being first duly sworn, say that I am the
26 plaintiff in the within entitled action and that the foregoing Complaint
27 is true as I verily believe.

28 Ervin Haring

29 Subscribed and sworn to before me this 22nd day of December,
30 1969.

31 Certified to be a true and correct
32 copy of original filed in my office.
33 Dated January 7, 1970
34 George E. Juba, Clerk
35 By A. D. Crist Deputy

36 William C. Grant
37 Notary Public for Oregon
38 My Commission expires: 10-28-71

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

4-69 Crim-35

In re JEROME DALY

CONTEMPT CERTIFICATE

In conformity with Rule 42(a) of the Federal Rules of Criminal Procedure, I hereby certify that the act of criminal contempt set forth below was committed in the actual presence of the Court and was heard by the Court during the trial of the case of United States of America v. Carl R. Anderson et al., 4-68 Cr. 47 on April 22, 1969.

Mr. Jerome Daly is the attorney for the defendant Carl R. Anderson. On April 22, 1969, the first day of the trial of that defendant, Mr. Daly commenced cross-examination of the first prosecution witness with a line of questioning which the Court concludes was in direct violation of pretrial orders, which precluded the defendant or his attorney from bringing in issue during the course of the trial the validity of the Federal Reserve System, the National Banking Act, or in any way litigating the constitutionality of the federal monetary system. The Court concluded that Mr. Daly's action subjected him to punishment for contempt pursuant to Section 401 of Title 18 of the United States Code.

The rulings of the Court, both in the pretrial conferences and at the trial, arise in the context of Mr. Daly's persistent efforts to attack the constitutionality of the federal monetary system. The Court takes judicial notice of various proceedings in this Court and in the United States Court of Appeals for the Eighth Circuit.

Attest
Certified
BY: Judith Palmer Deputy 42174

Filed April 29 1969
Frank A. Massey, Clerk.
By CAROLYN R. Mathews Deputy

Petitioners Ex 23
2/10/76

In 1963, Mr. Daly contended that notes issued by the federal reserve banks constituted an illegal coining of money in the case of Horne et al v. Federal Reserve Bank of Minneapolis et al., No. 3-63-332 Civil. He appeared there as the attorney for the plaintiffs and alleged in the complaint that the National Bank Act of 1864, 12 U.S.C. § 21 et seq., and the Federal Reserve Act of 1913, 12 U.S.C. § 221 et seq., were unconstitutional. These claims were rejected by Judge Donovan of this Court in Horne v. Federal Reserve Bank of Minneapolis, 227 F. Supp. 225 (1964). His decision was affirmed by the Eighth Circuit at 344 F. 2d 725 (1965). Judge Ridge, in his opinion in the Eighth Circuit, rejected the plaintiffs' claim with respect to Federal Reserve Notes: "We agree with the District Court, that the notes so received are legal tender by Act of Congress" 344 F.2d at 725.

On March 14, 1966, a complaint signed by Mr. Daly as attorney for the plaintiffs was filed in the case of Wildanger et al. v. Federal Reserve Bank of Minneapolis et al., No. 4-66 Civ. 83. Named as defendants in this case were the Federal Reserve Bank, the First National Bank of Minneapolis, the Northwestern National Bank of Minneapolis, President Lyndon B. Johnson, Secretary of the Treasury Fowler, Minnesota State Treasurer Bjornson, and John Doe, and Richard Roe. Again the alleged usurpation of the power to coin money was the gravamen of the complaint. In an order dated July 18, 1966, Chief Judge Devitt granted the defendants' motion for summary judgment.

Similar issues were raised in the case of Zurn et al. v. Federal Reserve Bank of Minneapolis et al., 4-66 Civ. 399. Chief Judge Devitt ordered Judgment for the defendants

in that case on March 15, 1967. (A copy of this order is included in Appendix B attached to this order.)

Mr. Daly commenced an action for \$250,000 in general and special damages and \$4,000,000 in punitive damages in Hennepin County District Court on behalf of Bernard E. Koll against the Wayzata State Bank of Wayzata, Minnesota, its directors, the banks named as defendants in the other actions mentioned above, Joyce A. Swan, a Federal Reserve Agent, and others. Again the constitutionality of the monetary system was challenged. This action was removed to this Court and the complaint was dismissed by this Court's order dated September 11, 1967. The Court of Appeals affirmed. Koll v. Wayzata State Bank, 397 F.2d 124 (8th Cir. 1968). That Court's opinion noted that the plaintiff was "represented by a lawyer whose unreachable quest is a judicial decree of unconstitutionality of the federal income tax and the federal reserve and monetary system of the United States." 397 F.2d at 125. The Court noted that the complaint was "a completely unintelligible statement of argumentative fact" and at best "represents a euphoric harassment of bank officials, lawyers and federal courts. It is difficult to accept that the complaint has been drafted by a person licensed to practice law." Ibid.

The validity of the monetary system was also raised by Mr. Daly appearing pro se in proceedings regarding his own income tax returns. See Daly v. United States, 393 F.2d 873 (8th Cir. 1968). In that opinion the Court of Appeals vacated this Court's holding Mr. Daly in contempt for failure to comply with an order requiring him to appear

and answer certain questions regarding his income tax.

Mr. Daly also appeared as attorney for Mr. Alfred M. Joyce in the case of Joyce v. Northwestern State Bank of Appleton et al., No. 3-68 Civil 32. This action was commenced in Scott County, Minnesota and removed to this Court. The lengthy list of defendants included all five active judges of this Court, various federal reserve banks and the directors of them, and other banking and political officials. Chief Judge Roy L. Stephenson of the United States District Court for the Southern District of Iowa was assigned to hear the case. He issued the following order:

It is therefore, on this 20th day of June, 1968,

ORDERED, ADJUDGED AND DECREED that the preliminary injunction heretofore granted and issued orally by this Court herein on the 3rd day of May, 1968, and affirmed in memorandum and order of the Court dated June 17, 1968, be and the same hereby is made perpetual and permanent and that the plaintiff Alfred M. Joyce and his attorney, Jerome Daly, are permanently enjoined and restrained from continuing, commencing, or prosecuting any suit, action or proceeding, either in this Court or in any court, state or federal, upon any claim arising out of any claimed transaction between the parties hereto at and prior to the date of this Order, or any claims regarding unlawful creation of money and credit, or an attempt to relitigate the same cause of action, and matters previously determined in respect to the same subject matter, or based upon any right, question or fact previously decided

by this Court on March 16, 1967, and by the decision of the State District Court, Eighth Judicial District, at Montevideo, Minnesota, decided on March 14, 1966.

The present case in which Mr. Daly represents Carl R. Anderson is a mail fraud and securities fraud action. Mr. Anderson, Luther C. Gronseth, and Julian Vinge are charged with eleven counts of mail fraud (18 U.S.C. § 1341) and twelve counts of fraudulent interstate transactions (15 U.S.C. § 77q(a)). Mr. Daly indicated shortly after the indictment was filed that he intended to assert the alleged invalidity of the monetary system as a defense in this action. In a "Demurrer and Motion and Notice of Motion" filed on May 15, 1968, he moved to dismiss the indictment on the ground, inter alia, "That the Indictment, in referring to Money and Monies, fails to set forth 'Lawful Money of the United States' or 'a lawful consideration' or any consideration at all, and therefore does not state a public offense." The motion was denied by Judge Larson on July 15, 1968.

A severance was granted to defendants Gronseth and Vinge. Counsel for both these defendants asserted in their motions for severance that they would be prejudiced by trial tactics likely to be adopted by counsel for Mr. Anderson.

In a pretrial conference held before this judge on September 11, 1968, the same contentions were made by Mr. Daly. This Court ruled that questions regarding the integrity of the monetary system could not constitute a defense in this matter and would have nothing to do with

the case. This ruling was incorporated in a formal pretrial order filed September 18, 1968, paragraph 19:

Defendant Anderson and his counsel have stated that part of their defense shall be that the currency of the United States, the Federal Reserve Board and its notes and money and the Minnesota Non-Profit Act are all illegal, fraudulent, and unconstitutional. The Court rules that these are lawful and constitutional and that no inference of fraud may be drawn from the use of any one of these means of exchange or the Minnesota Statute in the absence of additional proof. Defendant Anderson shall file a motion and brief by 10:00 A.M., September 18, 1968, with respect to that portion of this order that he wishes further to contest.

Mr. Daly continued to assert various claims regarding the monetary system. In a pretrial conference held on March 19, 1969, the Court again ruled that the purported defense was not valid and that the constitutionality of the Federal Reserve System was not in issue in this case:

THE COURT: The Court will take judicial notice of the fact that they [Federal Reserve Notes] are legal and they will not be litigated.

MR. FOLEY: All right.

THE COURT: And any evidence going to the validity or constitutionality of the authenticity of federal currency and all of the other problems that you have litigated from time to time, or attempted to litigate, about the Federal Reserve

System -- that testimony will not be a part of this case.

Transcript, March 19, 1969, 10:30 A.M., p. 7.

A similar ruling was made the following day when the pretrial conference was continued. At that time the Court indicated that immediate sanctions would be taken if Mr. Daly did not abide by the Court's ruling:

THE COURT: Mr. Daly, there will be no further discussion of the Banking Act. Do you understand that? And if you carry on any further, I will order you immediately imprisoned by the U. S. Marshal.

Transcript, March 19-20, 1969, p.23.

On April 1, 1969, Mr. Daly appeared before the Court to argue his motion for a transfer of this case to Justice Martin V. Mahoney, Justice of the Peace Court, Credit River, Township, Scott County, Minnesota. Mr. Daly supplied the Court with the information that this justice of the peace had held the Federal Reserve Act and the National Banking Act unconstitutional in a decision handed down December 9, 1968. (For further information see Appendixes A and B, attached hereto.) In the course of his argument, Mr. Daly referred to the case of Koll v. Wayzata State Bank, supra. At that time the Court ordered Mr. Daly not to persist in bringing that matter up:

THE COURT: Mr. Daly, I suggest you don't talk about that case now because you have been told not to talk about that case. You have been told not to bring it up, and if you want to talk about it, I will have the Marshal take you down and sit in that little place of his for a while.

Transcript, April 1, 1969, p. 12.

The trial of this case had been set for April 7, 1969. On that date Mr. Daly appeared in Court and indicated that he was presently involved in litigation in the United States Court for the Eastern District of Michigan. The trial of this case was thus postponed. Mr. Daly was again instructed to abide by the orders of the Court at the pain of being held in contempt. Transcript of Proceedings, April 7, 1969, p. 12.

The trial of the Anderson case commenced April 22, 1969 in this court. The jury was selected, and the United States Attorney delivered his opening statement. The first witness called for the prosecution was Mr. Elliott L. Kuhlender, a bank official. In his direct examination the United States Attorney introduced into evidence certain bank records. Mr. Daly's cross-examination and the resulting ruling of the Court are quoted in full from the transcript:

CROSS-EXAMINATION

By Mr. Daly:

Q. The correct way to pronounce your name is Mr. Kulander, is that right?

A We pronounce it Kulander.

Q You have been with the Marquette National Bank for how long?

A Some over 32 years.

Q And you are a vice-president with them?

A Assistant vice-president.

Q I see. Now, as I understand it, you are in charge of accounts?

A Well, customer service probably would cover most of the duties that I have.

Q Now, you use the term -- by the way, you are a member of the Federal Reserve Bank, your bank is?

A Yes, sir.

Q You used a term, "dollars," here, is that right?

A Right.

Q And I notice here like it shows deposits, \$70,000, what do you mean by the term, "Dollar"?

MR. FOLEY: If the Court please, I object.. The Court can take judicial notice --

THE COURT: Sustained. I tell you now again, Mr. Daly, that the integrity of the American dollar is not in question in this lawsuit and dollars for your purposes are the same as dollars for the purpose of everyone else, the American dollar. Now, go on with your questioning.

By Mr. Daly:

Q When you have \$70,000 is that gold or silver coin?

MR. FOLEY: If the Court please, I object, a direct violation --

THE COURT: Sustained. Do not bear on that any longer, Mr. Daly.

MR. DALY: Well, the Constitution states that no --

THE COURT: Members of the jury, you may be excused now, come back at 9:30 tomorrow morning.

(Jury excused)

THE COURT: Is the United States Marshal here?

DEPUTY MARSHAL: Yes, Your Honor.

THE COURT: Now, in the absence of the jury will you take Mr. Daly in custody and take him down to your quarters.

MR. DALY: What is the charge?

THE COURT: The charge is contempt of Court.

MR. FOLEY: You had better let him get his files.

THE COURT: Give him his Miranda warnings.

MR. FOLEY: Let him take his files, so if I can ask the Court to allow him, the Government can't-- at least my office doesn't want them.

THE COURT: Which files?

MR. FOLEY: He must have briefcases and stuff.

THE COURT: Give him the Miranda.

DEPUTY MARSHAL: According to the Judge I have been ordered to take you into custody. The Constitution requires that I inform you that you have a right to remain silent, that anything you say can be used in court as evidence against you. You are entitled to talk to a lawyer now and have him present now or at any time during questioning. If you cannot afford a lawyer the Government will get one for you without cost. At any time during the questioning you have a right to quit answering questions if you so desire not to answer.

Do you understand?

MR. DALY: Yes.

Who is the lawyer you are going to have appointed for me without cost?

THE COURT: Name him. You name him and he will be there, a lawyer that is admitted to practice before this Court.

MR. DALY: May I ask a question?

THE COURT: Get your lawyer to talk to me. Take him away now. Court is in recess.

(Whereupon a recess was taken at 4:20 o'clock p.m., April 22, 1969 until 9:30 o'clock a.m., April 23, 1969.)

Mr. Daly remained in the custody of the United States Marshal until 9:30 a.m., April 23, 1969, at which time he appeared before this Court. He was not represented by counsel. The Court advised him that he had a constitutional right to be represented by counsel. Mr. Daly indicated that he was willing to go ahead without an attorney. The record of what transpired at that time is incorporated in the transcript of proceedings in the case of United States v. Carl R. Anderson, No. 4-68 Cr. 47, for that day. Suffice it to say that the Court told Mr. Daly that he would be purged of contempt at such time that he indicated to the Court that he would follow the Court's admonitions, its pretrial orders, and its rulings, and conduct himself as a lawyer should and in a gentlemanly manner. The United States Attorney reviewed Mr. Daly's attacks on the monetary system which have been outlined above. The Court also referred to the various rulings made regarding Mr. Daly's contentions in this case. Mr. Daly, acting on his own behalf, argued that the questions he asked did not violate the Court's earlier rulings. However, he indicated that he was willing to abide by the rulings of the Court and thus any further sentence of

imprisonment was suspended. The Court outlined to Mr. Daly rulings regarding any attempt to bring in issue the monetary system and two other matters which Mr. Daly had raised at various points in these proceedings -- his contention that the Rules of Criminal Procedure are invalid and his contention that this prosecution is a part of some sort of giant political conspiracy. When Mr. Daly indicated his willingness to continue in accordance with the order of the Court, the trial was resumed.

The Court concludes that Mr. Daly's questioning of the witness constituted a violation of the pretrial orders quoted above, and that this Court has power to punish this contempt pursuant to 18 U.S.C. § 401. By these questions, it was apparent to the Court that Mr. Daly once again was attempting to litigate the validity of the currency. His own statement at the hearing on April 23, 1969 indicates that the Court was correct:

So the only lawful tender is gold or silver coin, and I was leading up to asking this banker if they had any \$70,000 in gold or silver coin in there, in their bank. And I think that I could have elicited the evidence that they don't have it in any of these banks. So they have made it physically impossible for, that is, the personnel in charge of the Government, United States, have made it physically impossible for these bonds to be redeemed in lawful money.

Transcript, p. 184.

Since Mr. Daly's conduct occurred in the presence of the Court, summary disposition of this matter was appropriate pursuant to Rule 42(a) of the Federal Rules of Civil Procedure. The Court is aware that contempt proceedings should not be instituted against a defense attorney during the pendency of a trial if it is at all possible to avoid them. See Sacher v. United States, 343 U.S. 1, 9-10 (1952). However, in this case, obedience to the Court's pretrial orders was essential to the proper disposition of this case. If the Court erred in those rulings, those errors may be corrected on appeal. The defendant's rights are well preserved in that regard. But this Court is not going to permit this lawyer to make this case his forum for an attack on the validity of the monetary system. His initial questions on cross-examination of the first witness indicated that all the prior rulings and warnings had gone unheeded. Therefore, the contempt ruling was necessary.

In the proceedings held in open court on April 23, 1969, Mr. Daly indicated his willingness to abide by the orders of the Court. Any further sentence of imprisonment was then suspended. The Court does not see fit to impose any further punishment. However, should Mr. Daly again violate the orders of the Court issued earlier and repeated again when this matter was heard on April 23, 1969, the Court will not hesitate to find him in contempt again and to impose a fine or a sentence of imprisonment.

The foregoing constitutes a certificate of contempt in this matter which is required by Rule 42(a) of the Federal Rules of Civil Procedure except that there is incorporated herein the appendixes attached hereto and

incorporated by reference the file in the matter of
United States of America v. Carl R. Anderson et al.,
No. 4-68 Cr. 47, particularly the transcripts of
proceedings held on March 19, 1969, March 20, 1969,
April 1, 1969, April 7, 1969, April 16, 1969,
April 22, 1969, and April 23, 1969.

This certificate is to be filed with the Court.
A copy of it shall be incorporated in the record of
United States of America v. Carl R. Anderson et al.,
No. 4-68 Cr. 47.

/s/ Miles W. Lord
United States District Judge

Dated: April 28, 1969.

APPENDIXES

Appendix A -- The Daly Eagle, February 7, 1969.

Appendix B -- Copy of letter from Theodore R. Mellby to United States Attorney, dated April 4, 1969, with copy of enclosures. (Among the enclosures are copies of the opinion of the Court of Appeals in Koll v. Wayzata State Bank, the notice of the order granting defendants' motion for summary judgment in Wildanger et al. v. Federal Reserve Bank of Minneapolis, No. 4-66 Civ. 83, the order of Chief Judge Stephenson in Joyce v. Northwestern State Bank of Appleton, No. 3868 Civ. 32, and the order for judgment of Chief Judge Devitt in Zurn v. Federal Reserve Bank of Minneapolis, 4-66 Civ. 399).

1 STATE OF MINNESOTA DISTRICT COURT
2 COUNTY OF DAKOTA FIRST JUDICIAL DISTRICT

3 ----- X

4 Ridge Lutheran Home, Inc., and : 70
5 Eugene W. Linse, Jr., : 78
6 Plaintiffs, : **42174**

7 vs. : DEFENDANTS

8 Carl R. Anderson and Julian Vinge, : ~~EX~~
9 individually and as co-partners : ~~O. C. BREVO, Rpt.~~
10 doing business as A. & J. Builders and : Respondents' Ex
11 as A. & J. Builders and Contractors, and : EEEE
12 A & J Builders, Inc., a corporation, : 2/18/70 smg
13 Defendants. :
14 ----- X

15 Deposition of Carl R. Anderson taken by
16 the Plaintiffs before Marjorie O. Franklin, a Notary Public
17 in and for the County of Hennepin and State of Minnesota,
18 at 1200 Builders Exchange Building, Minneapolis, Minnesota,
19 September 19, 1967, commencing at 2:00 o'clock P.M., pursuant
20 to attached Notice and agreement.

21 APPEARANCES:

22 Hyman Edelman, Esq.
23 1200 Builders Exchange Building
24 Minneapolis, Minnesota
25 Attorney representing Plaintiffs;

Robert J. Beugen, Esq.
2300 Central Ave. N.E.
Minneapolis, Minnesota
Attorney representing Plaintiffs;

APPEARANCES (Continued):

Paul Magnuson, Esq.
Drovers Bank Building
South St. Paul, Minnesota
Attorney representing Defendants Carl
R. Anderson and A & J Builders, Inc.

* * * *

Whereupon,

CARL R. ANDERSON,

a witness called by the Plaintiffs, having been first duly
sworn, was examined and testified as follows:

CROSS-EXAMINATION

MR. EDELMAN: The deposition of Carl R.

Anderson is being taken pursuant to Notice of Taking
Deposition served on him and originally set for September
13, 1967, at 10:00 o'clock A.M.; and by stipulation
of Counsel, continued to September 19, 1967, at
2:00 P.M., at the place indicated in the original Notice
of Taking Deposition.

BY MR. EDELMAN:

Q Will you state your full name and address?

A Carl Richard Anderson; 20 Arthur Terrace, Burnsville,

1 Minnesota, 55378.

2 Q And what is your occupation or business?

3 A Construction, development.

4 Q And are you associated with any particular business?

5 A A & J Builders, Inc.

6 Q And is that a Minnesota corporation?

7 A Yes.

8 Q When was that organized?

9 A February of 1963.

10 Q And where does it have its place of business?

11 A 1725 West 80th, Minneapolis, Minn.

12 Q Who are the stockholders of A & J Builders, Inc.?

13 A Carl R. Anderson and my wife, Mary.

14 Q And has there been any change in the stock ownership
15 within the last year?

16 A No.

17 Q More specifically, has Julian Vinge ever been a stock-
18 holder?

19 A Yes.

20 Q When was he a stockholder?

21 A I don't know the exact date on that. I believe Paul
22 has that.

23 MR. MAGNUSON: If we might go off the record
24 for a moment.

25 (Discussion off the record.)

1 STATE OF MINNESOTA DISTRICT COURT
 2 COUNTY OF DAKOTA FIRST JUDICIAL DISTRICT

3 - - - - - x

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 5 Eugene W. Linse, Jr., : 78
 6 Plaintiffs, : **42174**

7 vs. : DEFENDANTS

8 Carl R. Anderson and Julian Vinge, : *Ex*
 9 individually and as co-partners : *Q. C. BREVO, RDR.*
 10 doing business as A. & J. Builders and : *Respondents' Ex*
 11 as A. & J. Builders and Contractors, and : *EEEE*
 12 A & J Builders, Inc., a corporation, : *7/18/70 smj*
 13 Defendants. : *smj*

12 - - - - - x

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Attorney representing Defendants Carl
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15 within the last year?

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17 Q More specifically, has Julian Vinge ever been a stock-
18 holder?

19 A Yes.

20 Q When was he a stockholder?

21 A I don't know the exact date on that. I believe Paul
22 has that.

23 MR. MAGNUSON: If we might go off the record
24 for a moment.

25 (Discussion off the record.)

1 BY MR. EDELMAN:

2 Q What's your age, Mr. Anderson?

3 A Forty years old.

4 Q Are you married?

5 A Yes.

6 Q And you have a family?

7 A Yes.

8 Q How many children?

9 A Two children.

10 Q Now, the address that you just gave us, the address of
11 A & J Builders, Inc., is also the address of the Dependable
12 Excavators, is it not?

13 A This is correct.

14 Q Who owns Dependable Excavators?

15 A Julian Vinge.

16 Q And is Dependable Excavators a corporation?

17 A Yes.

18 Q And is A & J Builders, Inc., a tenant of Mr. Vinge or
19 tenant of the Dependable Excavators?

20 A Mr. -- Dependable Excavators.

21 Q Who do you pay your rent to?

22 A Well, we don't pay any rent.

23 Q What arrangement do you have?

24 A We have just been in there a short while.

25 Q How long is that?

1 A Three months.

2 Q Where did you have your office before that?

3 A Well, we had it at 8017 Knox.

4 Q 8017 Knox?

5 A Yes.

6 Q Now, is there some way you can get us the information
7 with respect to the participation by Vinge in A & J Builders,
8 Inc.?

9 A Yes.

10 Q When can you get that?

11 A Immediately after.

12 Q Was there ever a partnership called A. & J. Builders?

13 A No.

14 Q Was there ever a partnership called A. & J. Builders and
15 Contractors?

16 A No.

17 Q Were you and Julian Vinge a partnership in any way?

18 A No.

19 Q So that your only business connection was that at one
20 time he was a stockholder in your company, A & J Builders, Inc.?

21 A Correct.

22 Q Was he one of the original stockholders?

23 A Yes.

24 Q You say you organized the corporation in 1963?

25 A Right.

1 Q And he remained a stockholder until some time, some
2 date that you have not yet been able to give us?

3 A That is right.

4 Q What are the assets of A & J Builders, Inc.?

5 A Just right off-hand, I don't know.

6 Q Now, one of the things we asked you to bring was the
7 contract between the sellers of the land and Ridge Lutheran
8 Home, Inc. Do you have that with you?

9 A Correct.

10 Q Now, you noticed this description which is set forth
11 in the complaint in the first column, which is a tract of land
12 of approximately 125 acres, I guess. Who owns that land?

13 A A & J Builders, Inc.

14 Q And the contract I just referred to a moment ago is the
15 contract covering that land?

16 A This is correct.

17 Q How many acres does that contract cover?

18 A It covers approximately 130 acres.

19 Q About 130 acres?

20 A Yes.

21 Q May I have that contract?

22 (Document handed to Counsel.)

23 (Plaintiffs' Deposition Exhibit
24 I marked for identification.)

25 BY MR. EDELMAN:

1 Q Showing you Plaintiffs' Deposition Exhibit 1, Mr.
2 Anderson, is this the original agreement between A & J Builders,
3 Inc., and Ridge Lutheran Home, Inc., concerning the tract of
4 land that we spoke of a moment ago of approximately 130 acres
5 in Burnsville?

6 A Well, I don't know if it's the original. It's one of
7 the copies. It's the original, I believe, but I don't know if
8 it's -- two copies were made.

9 Q Does that appear to be the ribbon copy, one that would
10 be the original as distinguished from a carbon copy?

11 A It would appear that it was a carbon copy.

12 Q This appears to be a carbon copy to you?

13 MR. MAGNUSON: If we may go off the record
14 a moment.

15 (Discussion off the record.)

16 BY MR. EDELMAN:

17 Q Well, Mr. Anderson, does your signature appear on this
18 document?

19 A Correct.

20 Q How does it appear? Does it appear on behalf of the
21 seller, A & J Builders, Inc.?

22 A Yes.

23 Q As president of the seller?

24 A Yes.

25 Q Does it appear also on behalf of the buyer, Ridge

1 Lutheran Home, Inc., the proposed acquirer of the property,
2 as president thereof?

3 A Yes.

4 Q Who are the stockholders of A & J Builders, Inc.?

5 A Carl Anderson and my wife, Mary.

6 Q Between the two of you, you own all the stock?

7 A That is correct.

8 Q And your testimony is prior to April 26, 1966, Mr.
9 Vinge had no stock in this corporation?

10 A This is correct.

11 Q And at the time this -- was this agreement entered into
12 on the date that it bears?

13 A This is correct.

14 Q April 26, 1966?

15 A Correct.

16 Q How much money did Mr. Vinge have invested with you at
17 any time when he was a stockholder?

18 A I can't say off hand.

19 Q Can you give us any idea? Are you talking about a
20 hundred thousand, or --

21 MR. MAGNUSON: I am going to object to this
22 question as (1) being speculative. The witness has
23 testified that he cannot say off-hand at this moment.
24 And in addition to that, I object to its being irrele-
25 vant to the matter under question and what affairs occurred

1 by and between Mr. Anderson and Mr. Vinge at any time
2 prior to this, can have no relevancy to this proceeding.

3 MR. EDELMAN: We will proceed.

4 BY MR. EDELMAN:

5 Q Mr. Anderson, at the time you entered into this contract
6 through your A & J Builders, Inc., was Mr. Vinge also a member
7 of the Board of Directors of Ridge Lutheran Home, Inc.?

8 A Yes.

9 Q Were you also a member of the Board of Directors of the
10 Ridge Lutheran Home, Inc.?

11 A Yes.

12 Q Were you at that time the executive secretary of Ridge
13 Lutheran Home, Inc.?

14 A Yes.

15 Q And in charge of its business and affairs?

16 A Not wholly.

17 Q Now, as a matter of fact, you executed this document
18 in a third capacity also, as executive secretary of Ridge
19 Lutheran Home, Inc., didn't you?

20 A That is correct.

21 Q In the lower right-hand corner you marked the attest
22 by your signature, executive secretary; and by that you meant
23 executive secretary of Ridge Lutheran Home, Inc.?

24 A This is correct.

25 Q Because the other attesting party is Mary B. Anderson,

1 your wife?

2 A That is correct.

3 Q And she attested as secretary and treasurer of A & J
4 Builders, Inc.?

5 A Yes.

6 Q When did you acquire this property?

7 MR. MAGNUSON: I am going to object to that
8 also as being irrelevant to this matter. When or how
9 this property was acquired I think has no bearing what-
10 soever upon the case in consideration.

11 MR. EDELMAN: You recall, Mr. Magnuson, we
12 are charging this is not only a case of self-dealing on
13 both sides of the transaction, also charging that the
14 price which is determined here was not determined in an
15 arm's length transaction; therefore it is of the greatest
16 relevance because we know what the fair value of this
17 property would be at an arm's length transaction. So
18 the record is very clear that we must know what he paid
19 for it.

20 MR. MAGNUSON: Again I will stand on my
21 objection and will stand on the objection on two bases:
22 (1) The intervention of time that has been involved in
23 the matter; and for that matter, the acquisition of this
24 property could have come by inheritance, by gift, by
25 purchase.

1 MR. EDELMAN: Mr. Magnuson, what's the use
2 of beclouding the record.

3 BY MR. EDELMAN:

4 Q When did you acquire this property?

5 A 1963.

6 Q All right. So you acquired it just about three years
7 before the date of this transaction, is that right?

8 A Right.

9 Q All right.

10 MR. EDELMAN: Now, do you still want to
11 instruct him not to answer the question about how much
12 he paid for it in 1963?

13 MR. MAGNUSON: Yes, I will so instruct him.

14 MR. EDELMAN: So the record is clear, you
15 so instructed him.

16 BY MR. EDELMAN:

17 Q Now, you undertook to have this agreement executed. It
18 calls for the purchase of this property at \$7,000 per acre,
19 according to the first sentence in Paragraph No. 2 of the agree-
20 ment. Are we to understand that is what you expected the Home
21 to pay you for this land, \$7,000 per acre?

22 A Yes.

23 Q Now, you also say in the second sentence of Paragraph
24 2 that you are to have \$500,000 paid on or before December 30,
25 1967. Now, are you referring to the balance of the purchase

1 price computed on the basis of \$7,000 an acre?

2 A Repeat that again, please?

3 Q Well, 130 acres at \$7,000 an acre would be \$910,000
4 according to the way I figure it. And I want to get the relation-
5 ship of this \$7,000 per acre price specified in the first sen-
6 tence and a payment of \$500,000 which is referred to in the
7 second sentence. Are we talking about two different prices,
8 or what is the relationship between the two figures?

9 A No. It's the balance.

10 Q So that if they paid for the entire 130 acres, and
11 there was only a balance of 500,000 left, it would mean they
12 would have paid you \$410,000; which with the 500,000 would make
13 910,000?

14 A This is correct.

15 Q This contemplated an ultimate purchase price of \$910,000
16 for 130 acres, right?

17 A Right.

18 Q Now, in this agreement also you reserve the right to
19 sell and remove gravel, sand, black dirt and material. Do I
20 understand this reservation of the right to remove sand and
21 gravel contemplated that you could remove such materials with-
22 out accounting to Ridge Lutheran Home, Inc., for the proceeds
23 or realization therefrom?

24 A Yes.

25 Q All right. So that this would be an additional benefit

1 to you if you saw fit to remove gravel and sand?

2 A Yes.

3 Q And this agreement also provided that you would -- that
4 the Ridge Lutheran Home would have no money interest in land
5 which was under condemnation. How big a piece was under con-
6 demnation for Highway 35E?

7 A It's not under condemnation.

8 Q If it were condemned, then you were to retain the money?

9 A I would take the legal proceedings to handle the situa-
10 tion.

11 Q Was any part of this 130 acres ever condemned?

12 A Yes.

13 Q What part?

14 A The Nicollet Avenue, which Burnsville condemned.

15 Q Nicollet Avenue -- how many acres were taken?

16 A There was approximately two and some tenths acres, I
17 believe.

18 Q When was this condemnation?

19 A That was in -- off-hand, I don't know the date.

20 Q Was it within the last year or two?

21 A It was -- the condemnation was before that -- more than
22 two years ago.

23 Q When did you receive payment on --

24 A This year.

25 Q In 1967?

1 A Right.

2 Q How much did you receive?

3 A Approximately \$9,000.

4 Q You received approximately \$9,000 for how many acres?

5 A It was two-something, if I remember right. Off-hand,
6 I don't remember. I would have to look at the condemnation.

7 Q This was property fronting on Nicollet Avenue?

8 A This was property for slope rights and properties taken
9 for Nicollet Avenue.

10 Q All right. Now, we said a moment ago that you reserved
11 the right to take gravel. Have you in fact taken gravel from
12 the land which is embraced within this contract?

13 A Yes, I have.

14 Q As a matter of fact, there have been extensive excava-
15 tions. As you drive by, it's apparent to any passer-by that
16 there has been considerable --

17 A That was taken prior to any agreement or prior to any
18 formation of Ridge Lutheran Home.

19 Q Has there been any sand and gravel and black dirt taken
20 from the premises after April 26, 1966?

21 A Yes.

22 Q How much?

23 A Off-hand, I would say three, four, thousand dollars.

24 Q Was this taken by Dependable Excavators?

25 A No, it wasn't.

1 Q Well, did they have anything to do with the sand and
2 gravel by way of becoming ultimate purchasers or processors of
3 it?

4 A They processed prior to any agreement here.

5 Q They processed what?

6 A Classified.

7 Q They classified the materials and piled them up in piles
8 according to classification?

9 A Well, all there is there is B.2 and Class 5.

10 Q They did the classifying for you?

11 A They did the work, put the machine in there.

12 Q To whom did you sell the sand and gravel that you did
13 remove?

14 A It was just some that we sold -- well, we sold Solberg
15 Construction Company some, and sold some to -- I can't remember
16 the other name. There wasn't very much that we sold.

17 Q The next thing that you provided in this agreement --
18 by the way, this agreement was drawn up by you?

19 A As executive secretary of the Lutheran Home.

20 Q Was the Ridge Lutheran Home in any way represented in
21 the drafting of this agreement?

22 A Yes.

23 Q By whom?

24 A Mr. Gronseth and Mr. Linse and Mr. Vinge.

25 Q And aside from them, there wasn't any other representation?

1 A This is right.

2 Q They had no legal representation?

3 A This is right.

4 Q And the language used is your language, isn't it?

5 A This is right.

6 Q Now, the next sentence says that the party of the first
7 part, meaning A & J Builders, Inc. -- when I say "you" A & J
8 Builders is your wholly-owned corporation, owned by yourself
9 and your wife?

10 A This is right.

11 Q And the testimony is that was the case at the time this
12 contract was entered into?

13 A This is right.

14 Q So I will refer to you as "you," meaning you or your
15 corporation. It says the party of the first part has the right
16 or contract to develop, construct, maintain, improve, remodel,
17 promote, any part of this planned unit development known as
18 The Ridges Concept. Does this mean that you retained the right
19 to do all the contracting, developing, maintaining, improving,
20 the entire project?

21 A This is correct.

22 Q Just what did this contemplate in addition to this
23 nursing home that we have seen partially constructed? What else
24 was in contemplation within the meaning of this contract?

25 A You mean --

1 Q For the builders?

2 A Well, we have a concept that we have that shows all
3 these things.

4 Q Do you have it here?

5 A Yes.

6 Q May I have it?

7 A Yes.

8 MR. EDELMAN: May we have this marked as
9 Plaintiffs' 2?

10 (Plaintiffs' Deposition
11 Exhibit 2 marked for identi-
12 fication.)

12 BY MR. EDELMAN:

13 Q Now, showing you Plaintiffs' Deposition Exhibit 2, is
14 this a rendering of The Ridges as an over-all project, and pre-
15 senting the general concept of it as an integrated community
16 sponsored by the Lutheran groups?

17 A Yes.

18 Q And does this rendering and the proposed ultimate im-
19 provements and the buildings and improvements, relate to the
20 entire piece of land which is approximately 130 acres, which we
21 have referred to as covered by the land purchase agreement
22 dated -- rather Plaintiffs' Deposition Exhibit 1?

23 A Right.

24 Q And I see that there is a reference to a conditional
25 use permit which was issued for this plan and supporting

1 engineering layouts for land use, private streets and utilities
2 by the Village of Burnsville. Was such a permit actually granted?

3 A This is right.

4 Q And this rendering consists of six sheets, as I see it;
5 the first sheet being a general, over-all schematic drawing
6 showing location of buildings and streets, is that right?

7 A Right.

8 Q And Page 2 of this Plaintiffs' Deposition Exhibit 2 is
9 descriptive of the geographic -- of the area in terms of pro-
10 jects without buildings being shown thereon, and it consists of
11 the descriptive material, is that right, in words?

12 A This is for use, for density.

13 Q It's called "land use detail"?

14 A Right.

15 Q By density, what do we mean? What do you understand
16 by density as used on Page 2 of this exhibit?

17 A This is the population that can be used in a certain
18 piece of land.

19 Q Now, turning to Page 3, this utilities -- is^a schematic
20 presentation of the location of utilities such as water, sewer,
21 lights?

22 A Right.

23 Q And turning to Page 4 of this exhibit, what does this
24 have reference to?

25 A These are the roads that have been constructed, are

1 roughed in.

2 Q And it shows the profile interms of elevations?

3 A Right.

4 Q And grades and slopes?

5 A Right.

6 Q Turning to page 5 of this Plaintiffs' Deposition Ex-
7 hibit 2, what does this depict?

8 A This is the same as prior.

9 Q Is it identically the same as Page 4?

10 A No, it's a continuation.

11 Q It contains some of the same kind of data, but with
12 reference to other parts of the project?

13 A Right.

14 Q Turning to Page 6 of this Plaintiffs' Deposition Exhibit
15 2, what does this depict?

16 A This is the sewer and water elevations.

17 Q I see.

18 A Grades.

19 Q I said before this has six pages; I see that I am
20 wrong -- it has seven pages. What does the last page depict?

21 A This is the same as prior, additional data.

22 Q Now, the next sentence of your agreement refers again
23 to the payment of \$500,000 retroactive to the beginning of the
24 development of The Ridges; and it states here that you will at
25 all times have on hand a contingency fund of at least \$200,000.

1 What sort of contingency fund were you referring to in this
2 agreement?

3 A A performance-bond type.

4 Q That's for the improvement --

5 A This is for performance on their part -- that I have
6 the right to build and construct these buildings.

7 Q Well, it says the party of the first part shall have.
8 That means you, A & J Builders, Inc. Did you have a contingency
9 fund of \$200,000 on hand?

10 A No.

11 Q Did you ever have it on hand?

12 A Probably.

13 Q What did you say?

14 A I don't know off-hand how -- yes.

15 Q Well, on April 26, 1966, did you have it on hand?

16 A Yes.

17 Q In what form?

18 A Money.

19 Q You had \$200,000 in money that belonged to you; and
20 where was it on deposit?

21 A I don't know off-hand.

22 Q Well, as a matter of fact, you never did have any con-
23 tingency fund; and your first answer was correct, wasn't it?

24 A This is correct.

25 Q So you never had any contingency fund?

1 A Right.

2 Q Now, the next sentence of this agreement says that you
3 were to receive 10 per cent of the cost of labor and materials
4 superintendence and expenses. Was this 10 per cent fee that
5 was to be paid to you for being the contractor -- is that what
6 this means?

7 A This is right.

8 Q In other words, you were -- we understand this sentence
9 means that you agreed to construct whatever was to be construct-
10 ed on the basis of cost of labor and materials and superinten-
11 dence plus a fee of 10 per cent to you?

12 A Right.

13 Q And then it says in the next portion of the sentence,
14 "And he shall receive 7 per cent of the cost of all and any
15 work done by party of the first part or other contractors, sub-
16 contractors or general contractor."

17 A Right.

18 Q This means you were to get 17 per cent, is that what
19 it was?

20 A No.

21 Q Tell us how that was to work?

22 A This was just in cases where there would be Hill-Burton
23 funds -- where the job would have to be bid, this would be a
24 fee to me to take care of this thing so it was done correctly.

25 Q In what case do you get 10 per cent?

1 A When A & J Builders does actual construction.

2 Q Then your profit was 10 per cent?

3 A Correct.

4 Q In addition to that, if you performed some other work,
5 you were to get 7 per cent of work done either by you or sub-
6 contractor or general contractor?

7 A Right.

8 Q Suppose you were the general contractor, A & J, Inc.;
9 you were to get 10 per cent for sure under the first portion of
10 this sentence. Did you also get 7 per cent of all the work done
11 by all the sub-contractors under you?

12 A This is right.

13 Q You would get 10 per cent over-all and 7 per cent on
14 all the subs?

15 A Right.

16 Q Is that a standard, common way of doing business?

17 A Right.

18 Q In your opinion, that's a fair and reasonable arrange-
19 ment between Ridge Lutheran Home, Inc., and A & J Builders?

20 A Right.

21 Q Do you have a contract besides this agreement for the
22 construction of the nursing home as a separate structure?

23 A No.

24 Q Do you have any contracts for the construction of any-
25 thing aside from this agreement?

1 A No.

2 Q Is this the only agreement between Ridge Lutheran Home,
3 Inc., and A & J Builders, Inc., relating to acquisition of land
4 and construction of the improvements thereon?

5 A Right.

6 Q Now, who prepared that concept which is depicted in
7 Plaintiffs' Deposition Exhibit 2? Was that done by an archi-
8 tect?

9 A Done by Brower and Associates.

10 Q And who paid for that?

11 A A & J Builders.

12 Q When was that done?

13 A I don't know off-hand when it was done.

14 Q Was it done after April 26, 1966?

15 A Prior to that.

16 Q Prior to April 26, 1966?

17 A Yes.

18 Q I call your attention to Page 1 of Plaintiffs' Deposi-
19 tion Exhibit 2 and the date of 9-13-65 -- September 13, 1965.
20 Would that assist you in recalling when this was prepared? And
21 I call your attention also to each and every page thereafter
22 seems to bear that same date of September 13, 1965.

23 A This is right.

24 Q So that -- do you know when Ridge Lutheran Home, Inc.,
25 was organized as a corporation?

1 A January 28, 1965 -- I beg your pardon, January 27.

2 Q January 27, 1965. This information was given to me
3 from a Certificate of Incorporation issued by the Secretary of
4 State, which your Counsel has just produced.

5 A Correct.

6 Q By the way, do you have any other corporate records
7 of the Ridge Lutheran Home with you?

8 A Right.

9 Q Do you have others? Do you have a minute book?

10 A Right.

11 Q May I see that?

12 MR. MAGNUSON: You will find it's a blank
13 minute book with the exception of the section on minutes.
14 The minutes are included in that.

15 BY MR. EDELMAN:

16 Q Now, this corporation was organized on January 27, 1965;
17 and you were its first president?

18 A Right.

19 Q And you were the executive secretary?

20 A At a later meeting.

21 Q How soon after the organization did you become executive
22 secretary?

23 A I think it was the first meeting.

24 Q At the first meeting?

25 A Correct.

1 Q Of the Directors. Now, this is a charitable, non-pro-
2 fit corporation; and all the members of the corporation are
3 also members of the Board of Directors?

4 A This is right.

5 Q And I notice that the Articles of Incorporation design-
6 ate or name seven individuals as the first Directors; but that
7 your minutes on March 5, 1965, which appear to be the first
8 minutes in the minute book produced by your Counsel, refer
9 only to five individuals, being Carl Anderson, Howard Burgdorf,
10 Rev. August Hauptman, Eugene Linse, and Luther C. Gronseth.

11 A These are the ones that were present.

12 Q Isn't it a fact that the other two never did assume
13 office; that there were only five Directors to start with?

14 A No, there was seven.

15 Q There were seven. When did the directorships fall
16 below seven? Will you tell us how that occurred and who got
17 off?

18 A Rev. Hauptman got off, and Mr. Pleuss.

19 Q Mr. Howard Pleuss -- P-l-e-u-s-s -- and Rev. August
20 Hauptman got off. How soon after the incorporation on January
21 27, 1965, did that happen?

22 A Probably five months later.

23 Q And who next left after those two?

24 A Howard Burgdorf.

25 Q How long after the withdrawal of the first two mentioned

1 Directors did Mr. Burgdorf resign as a Director?

2 A Oh, over a year.

3 Q So is it fair to say that beginning about five months
4 after the organization, some time in the summer, July of 1965
5 or thereabouts, the membership of the Board of Directors was
6 reduced to five; and about a year later was reduced to four,
7 in the summer of '66?

8 A Yes.

9 Q I think we have the exact date -- just a second.

10 A I believe Mr. Burgdorf resigned July 29, 1966. I'm
11 estimating this is right.

12 Q You're estimating exactly right; July 29, 1966.

13 A Right.

14 Q After Mr. Burgdorf's resignation on July 29, 1966, you
15 operated with four directors?

16 A Right.

17 Q Now, where was the business of the Ridge Lutheran Home,
18 Inc., transacted from and after January 27, 1965?

19 A Well, at first --

20 Q At the beginning.

21 A We transacted the business in a trailer house on the
22 property.

23 Q Yes?

24 A Then we rented an office at Southdale.

25 Q When did you rent the office at Southdale?

1 A Somewheres around August 1, 1965.

2 Q Now, beginning with the first meeting, the first organi-
3 zation meeting after your incorporation on January 27, 1965, you
4 became the executive secretary of Ridge Lutheran Home, Inc.,
5 by action of the Board of Directors?

6 A Right.

7 Q And you were also president?

8 A Right.

9 Q Now, what did your duties include?

10 A Well, what I was doing in my duties was I would come
11 in the office, sign checks; I took the mail in to the South-
12 dale office; I helped out wherever I could.

13 Q Did you have any functions in relation to correspon-
14 dence that came in? Did you answer correspondence as execu-
15 tive secretary?

16 A When the corporation first started, I answered the
17 mail.

18 Q Did you have in your possession, in your charge, the
19 financial records showing the deposits of moneys to the account
20 of Ridge Lutheran Home, Inc.?

21 A Right.

22 Q And you had the authority to endorse all checks?

23 A Right.

24 Q And to deposit them to the account. Where was the
25 account first maintained?

1 A The first account we had was I believe with the Valley
2 National Bank.

3 Q This is in Burnsville?

4 A Right.

5 Q And thereafter where did you maintain your account?

6 A Marquette National Bank.

7 Q And thereafter where did you maintain your account?

8 A Hudson National Bank.

9 Q Hudson Bank or First National Bank?

10 A First National Bank of Hudson.

11 Q And you were in charge of receiving moneys and dis-
12 bursing moneys from the beginning shortly after January 27,
13 1965, --

14 A Right.

15 Q -- until when?

16 A Until I resigned I imagine.

17 Q When did you send in your letter of resignation?

18 A I believe it was August 26 or 28, one of those dates --
19 26.

20 Q August 26, --

21 A 1967.

22 Q 1967. You sent in a resignation as president and
23 executive secretary of the Board of Ridge Lutheran Home, Inc.,
24 is that right?

25 A Right.

1 Q How did you send that?

2 A Registered mail.

3 Q All right. Now, between the beginning of the corpora-
4 tion, January 27, 1965, and August 26, 1967, which is a period
5 of two years and some seven months, how much money did Ridge
6 Lutheran Home, Inc., pay A & J Builders, Inc., on account of
7 the contract that has been identified as Plaintiffs' Deposi-
8 tion Exhibit 1?

9 A I would say about a million -- I don't know really the
10 exact figure. It's over a million dollars.

11 Q Over a million dollars was paid to you?

12 A Right.

13 Q And how much did you receive on account of purchase
14 price of land?

15 A Five hundred thousand.

16 Q Do you have any books and records where we can ascertain
17 how much you apportioned to land and how much you apportioned
18 for other things?

19 A Yes.

20 Q Where are those records?

21 A Well, off the record --

22 Q Well, do you have them with you here?

23 MR. MAGNUSON: The answer to this question
24 is no. And if we may go off the record, I would like
25 to give you an explanation of this.

1 BY MR. EDELMAN:

2 Q You haven't any records with you here?

3 A No.

4 Q Now, as I understand it, shortly after this contract
5 was entered into on April 26, 1966, you did undertake the con-
6 struction of the Nursing Home?

7 A Right.

8 Q When did that begin?

9 A About June 1st, 1966.

10 Q Less than -- About a month and a few days after this
11 contract was signed?

12 A That's right.

13 Q Now, was A & J Builders, Inc., the contractor on the
14 job?

15 A Right.

16 Q The general contractor?

17 A Right.

18 Q Did you give a performance bond?

19 A No.

20 Q Did you give a bond against mechanics liens?

21 A No.

22 Q Did you furnish any security to Ridge Lutheran Home in
23 terms of a bond or anything similar to a bond to guarantee
24 performance by you?

25 A No.

1 Q This includes also your answer before, that you didn't
2 have any contingency fund on hand, either?

3 A Right.

4 Q Now, during all this time that you were working from
5 the first part of June, 1966, until your resignation on August
6 26, '67, you were occupying two roles: First, your role as a
7 builder, A & J Builders, Inc., and receiving moneys in your
8 capacity as a builder and land seller. And at the same time
9 you were occupying the role as executive secretary and manager
10 of the building project for Ridge Lutheran Home. Isn't that
11 true?

12 A Would you repeat that again?

13 MR. EDELMAN: Well, read the question.

14 (Question was read.)

15 THE WITNESS: No.

16 BY MR. EDELMAN:

17 Q In what respect isn't it true?

18 A As far as A & J Builders.

19 Q What is there that needs to be corrected with A & J
20 Builders?

21 A Well, A & J Builders received the money from me as
22 executive secretary, Carl Anderson, of the Ridge Lutheran Home.

23 Q I didn't get that. Repeat it again. A & J Builders
24 Inc., as builder and general contractor, received money from
25 you as executive secretary of Ridge Lutheran Home, Inc. Is that

1 what you said?

2 A Right.

3 Q Is that correct?

4 A Correct.

5 Q Now, you have already said that you received a million
6 dollars or even more than a million dollars, possibly, from
7 Ridge Lutheran Home, Inc., funds?

8 A Correct.

9 Q When you received that million dollars or more, you
10 received it as A & J Builders, Inc.?

11 A No.

12 Q How did you receive it?

13 A As executive secretary, Carl Anderson, of Ridge Lutheran
14 Home.

15 Q As executive secretary of Ridge Lutheran Home, Inc.,
16 you paid it to A & J Builders, Inc., isn't that true?

17 A Correct.

18 Q All right. So when you received a million dollars,
19 at the receiving end was A & J Builders, Inc.?

20 A Correct.

21 Q And at the paying end was Carl Anderson as executive
22 secretary, Ridge Lutheran Home, Inc.?

23 A Right.

24 Q Now, can you give us a breakdown -- have you prepared
25 a breakdown of when and how you received that million dollars,

1 what dates?

2 A This would be through the checks that I brought in.

3 Q Have you got the checks here?

4 A Right.

5 Q All right, let's see the checks.

6 (Discussion off the record.)

7 BY MR. EDELMAN:

8 Q You have produced one box, which is a box identified
9 as Fibre-Metal Welding & Safety Equipment box; and out of that
10 box we have taken three manila envelopes. And in each of the
11 three manila envelopes we find a series of bank statements
12 with canceled checks, is that right?

13 A Correct.

14 Q And whose canceled checks are those?

15 A Ridge Lutheran Home, Inc.

16 Q These are Ridge Lutheran Home canceled checks?

17 A Correct.

18 Q These canceled checks are checks drawn successively
19 on the accounts which you described before as being the accounts
20 at Valley National in Burnsville, Marquette National in Minnea-
21 polis, and First National in Hudson, Wisconsin?

22 Q Right.

23 Q And your testimony is that if we were to go through
24 these accounts, we would find how the moneys which were Ridge
25 Lutheran Home's, Inc., were disbursed?

1 A Right.

2 Q All right.

3 MR. EDELMAN: Now, can we mark the box and
4 mark the three envelopes so we have now got them at
5 least in the custody of the deposition.

6 (Plaintiffs' Exhibits 3, 3-A,
7 3-B, 3-C are marked for
identification.)

8 BY MR. EDELMAN:

9 Q All right. Now, as to the mechanics, you say you tended
10 to receiving moneys for Ridge Lutheran Home, Inc., and seeing
11 to it they got deposited into the bank accounts.

12 A Well, the secretary took care of that.

13 Q Does your name appear as the endorsing party on any
14 of these checks?

15 A Yes.

16 Q As a matter of fact, you endorsed all the checks, didn't
17 you?

18 A Yes.

19 Q Okay. Now, what was the source of all the moneys that
20 the Ridge Lutheran Home, Inc., received?

21 A The sale of Lutheran development bonds.

22 Q And will you describe how those bonds were sold?

23 A The mail would come to my home. I would bring it into
24 Southdale, and it was taken care of -- send out the necessary
25 literature.

1 Q You say all the mail would come to your home?

2 A Right.

3 Q Why did all the mail come to your home when you had an
4 office?

5 A This was the corporate address.

6 Q What's your home address?

7 A 20 Arthur Terrace, Burnsville, Minnesota.

8 Q 20 Arthur Terrace, Burnsville, Minnesota?

9 A Yes.

10 Q And being the corporate address, the mail principally
11 came there to your house?

12 A Yes.

13 Q That was the corporate address of Ridge Lutheran Home,
14 Inc.; but your corporate address of A & J Builders, Inc., was
15 at another place?

16 A Right.

17 Q What was the corporate address there?

18 A 1725 West 80th.

19 Q That's where you are now?

20 A Right.

21 Q Where was it before?

22 A 8017 Knox.

23 Q When you talk about corporate address, you mean the
24 place where you had the office?

25 A Well, I did a lot of work right there in the office,

1 right.

2 Q Where is the official corporate office as designated
3 in the Articles of Incorporation of A & J Builders, Inc.?

4 A 8017 Knox.

5 Q In other words, that was the address at the time you
6 organized the corporation?

7 A This is right.

8 Q Now, did you send out soliciting material to people to
9 have them buy these bonds?

10 A When we first started, I did.

11 Q What did you say?

12 A We had a brochure and we sent out a brochure.

13 Q Can I see the brochure? Do you have a copy of it?

14 A This was the first one.

15 (Plaintiffs' Deposition
16 Exhibit 4 marked for
identification.)

17 BY MR. EDELMAN:

18 Q Showing you Plaintiffs' Deposition Exhibit 4, this is
19 a sample of the first soliciting material that was sent out
20 to prospective bond purchasers, which were referred to as
21 building development bonds?

22 A Right.

23 Q And these were sent out from your home?

24 A When we first started, right. They were sent from a
25 trailer after that, and from the Southdale office.

1 Q How did you select the list of people to whom this
2 was to be addressed?

3 A Through advertisements that we got responses to.

4 Q What kind of advertisements?

5 A Bond advertisements.

6 Q And did you have membership lists from the various
7 Lutheran churches of the Missouri Synod?

8 A I think we had one or two, but nothing -- we paid for
9 our advertising.

10 Q Where did you advertise?

11 A Well, we advertised in "The Farmer"; we advertised in
12 the church papers, different ones -- "Lutheran Reporter,"
13 "Lutheran Layman."

14 Q Yes?

15 A And other ones. I just can't remember all the names.

16 Q And calling your attention to the material in this
17 brochure, addressed to "Dear Investor", did you write this
18 material?

19 A No.

20 Q Did you subscribe to it?

21 A As a Board member, right; or executive secretary, right.

22 Q And I notice that you have a form for the investor to
23 send in a check for a bond or bonds as he would subscribe to it.

24 A Right, a check or confirmation.

25 Q And I notice in this brochure you also stated that there

1 were redemption privileges on 30 days' written notice.

2 A Right.

3 Q Did the bonds so provide? Was there any provision on
4 the bonds for redemption notice?

5 A Right.

6 Q There was?

7 A I believe so.

8 Q Well, will you produce a specimen of your bonds?

9 A I don't believe I have one along.

10 Q At any rate, the moneys that were deposited in the
11 Ridge Lutheran Home bank account came from the sale of bonds?

12 A Right.

13 Q And the bonds -- the whole program of receipt of money,
14 the sale of bonds, was under your supervision as executive
15 secretary of Ridge Lutheran Home?

16 A Right.

17 Q Now, did you keep the record of all the bonds sold?

18 A Right.

19 Q Do you have that record?

20 A Right.

21 Q Did you bring it with you here?

22 A Right.

23 Q Where is that?

24 A In the two suitcases.

25 Q The two suitcases which Mr. Magnuson is now opening?

1 THE WITNESS: And right there, Paul, is
2 the mail.

3 BY MR. EDELMAN:

4 Q All right. Now, Mr. Anderson, as I understand it then,
5 as the moneys -- after the moneys were deposited under your
6 direction, you would cause the Ridge Lutheran Home funds to
7 be disbursed through checks signed by you on its behalf?

8 A Right.

9 Q Now, turning as an example to the checks which seem to
10 be in the June, 1967 checking account statement, and calling
11 your attention to three checks payable to you personally:
12 Check No. 1752 for \$22,000; Check No. 1754 for \$5,000; and
13 Check No. 1773 for \$12,000, dated respectively June 1, June 7,
14 and June 15, for an aggregate of \$39,000, these checks were
15 all deposited in your personal bank account, weren't they?

16 A Right.

17 Q At Chanhassen, I believe?

18 A Right.

19 Q And likewise turning to the next batch of checks which
20 were returned for July 31, referring now to Check No. 1777,
21 dated June 27, for \$10,000; Check No. 1780 dated July 10, for
22 \$20,000; and Check No. 1781 for \$11,000, representing an
23 aggregate of \$41,000, in the July statement, as of July 31,
24 these likewise were all endorsed by you personally -- signed
25 by you personally on behalf of Ridge Lutheran Home, Inc.,

1 payable to you personally and endorsed by you personally and
2 deposited in your account at the State Bank of Chanhassen?

3 A As executive secretary.

4 Q You signed them as executive secretary of the Ridge
5 Lutheran Home, Inc., but you made them payable to you person-
6 ally?

7 A As executive secretary.

8 Q Is there anything there about the executive secretary?

9 A No, right.

10 Q All right. In whose name is the account maintained
11 at the State Bank of Chanhassen?

12 A My wife and my own.

13 Q Carl Anderson -- that's your personal account, right?

14 A Right.

15 Q Those checks that I mentioned so far went into your
16 personal account?

17 A Right.

18 Q Now, calling your attention to checks in the August
19 returned checks, being Check No. 1796 dated July 28, 1967, for
20 \$10,000; Check No. 1799 dated August 14, 1967, for \$15,000;
21 both of those likewise were endorsed by you personally and went
22 into your bank account at Chanhassen?

23 A Correct.

24 Q Now explain to us just what you were doing in this pro-
25 cess of first drawing checks in your capacity as executive

1 secretary of Ridge Lutheran Home, Inc.; making them payable to
2 yourself; then depositing them in the bank account maintained
3 by you and your wife at Chanhassen. Just how were you dis-
4 bursing the Chanhassen funds?

5 A What's your first question?

6 Q Tell us what you were doing. You were drawing money
7 as executive secretary of the Ridge Lutheran Home.

8 A We were garnished, and this is when this took place.

9 Q I am just asking what you were doing. You were drawing
10 large sums of money in checks ranging from 5 to 10, 11, to
11 20,000 dollars payable to you personally, and this money wound
12 up in the bank account at the State Bank of Chanhassen.

13 A From there it went to A & J Builders.

14 Q From there it went to A & J Builders, Inc.?

15 A Right.

16 Q Have you got your Chanhassen Bank account here with you?

17 A No, I don't.

18 Q And why couldn't you have paid A & J Builders direct?
19 Why should you have put it in your own account?

20 A According to the minutes, this is the way I felt it
21 should have been.

22 Q As a matter of fact, even after you resigned, you drew a
23 check, didn't you?

24 A No.

25 Q All right. Now, you say you transferred the money --
now we have traced the money into the Chanhassen Bank, which is

1 your personal bank account; and from there it went to A & J
2 Builders, Inc. Do you have any accounting or statements
3 showing how much money of the Ridge Lutheran Home you disbursed
4 and what was done with it?

5 A It's in the checks that I brought in.

6 Q Did you ever render an accounting?

7 A No.

8 Q Were you asked for an accounting?

9 A No.

10 Q In the summer of 1966 wasn't there a demand made on
11 you in writing by Mr. Linse for a special meeting and for an
12 accounting isn't that true?

13 A No.

14 Q Was there a notice of meeting given to be held on
15 August 22, 1966?

16 A I don't know.

17 Q Do you deny that on or about August 22, 1966, a notice
18 was sent to you as president of the Ridge Lutheran Home, Inc.,
19 by Mr. Gronseth, in which he reported to you that Mr. Eugene
20 Linse, secretary of the Board had requested a meeting to be
21 held on August 29, 1966; and you and Mr. Vinge refused to attend?

22 A Will you restate that, please?

23 (The question was read.)

24 THE WITNESS: Yes.

25

1 BY MR. EDELMAN:

2 Q You say no such meeting was ever called?

3 A The meeting was called, yes.

4 Q A meeting was called?

5 A But we didn't deny to go.

6 Q Why didn't you go?

7 A I wasn't in town.

8 Q In connection with that meeting, hadn't a written set
9 of resolutions been submitted to you which called for, among
10 other things, an accounting?

11 A No.

12 Q No such proposed resolutions were submitted to you?

13 A No.

14 Q And you are stating under oath now that in the summer
15 of 1966, particularly in the month of August, 1966, no demand
16 was made by members of the Board of Directors of Ridge Lutheran
17 Home, Inc., that you render an accounting?

18 A No.

19 Q Or that a professional accountant be maintained to
20 establish a bookkeeping system?

21 A No.

22 Q Or that you be relieved of your duties as executive
23 secretary?

24 A No.

25 Q No such demand was ever made of you?

1 A No.

2 Q And did you ever at any time, whether a demand was
3 made of you or not, ever prepare in an intelligible, under-
4 standable form a statement showing all the receipts that you
5 received as executive secretary of Ridge Lutheran Home, and
6 showing the disbursements of those moneys and the purposes
7 for which those moneys were disbursed?

8 A No, I never did.

9 Q Never did that. Did you consider that you were acting
10 in the role of trustee when you were acting as executive secre-
11 tary and Director?

12 A Very much so.

13 Q And you didn't think --

14 A I told Mr. Gronseth many times.

15 Q You have told Mr. Gronseth, but you didn't do it as
16 executive secretary?

17 A No.

18 Q You had control of the records, didn't you?

19 A They were open to anybody at any time.

20 Q Were they in your custody?

21 A Not all the time.

22 Q Who produced the records today?

23 A I produced in part.

24 Q You produced all the records of deposits and in the
25 various banks, maintained by the Ridge Lutheran Home, Inc., is
that correct?

1 A Right.

2 Q And you have had those records from the beginning of
3 the activity of Ridge Lutheran Home, Inc., in the first part
4 of 1965?

5 A No.

6 Q Has anybody else had custody?

7 A They have been at the office.

8 Q You have produced them today, haven't you?

9 A Right.

10 Q All right. And those records that you had and had
11 access to all this time would have shown all the receipts and
12 all the disbursements?

13 A Right.

14 Q And you cannot tell me today, can you, what actually
15 happened to all the money that you received as executive secre-
16 tary of Ridge Lutheran Home, Inc., excepting insofar as you say
17 to me to look through several thousand checks?

18 A Right.

19 Q And to look through several thousand checks would take
20 an auditor quite a considerable length of time to piece it
21 together now, isn't that true? How long do you think it would
22 take to determine how much moneys were received by Ridge Lutheran
23 Home and what happened to the moneys?

24 A I don't know.

25 Q You say you don't know. Do you think it could be done

1 in less than two, three, or four weeks?

2 A I believe it could.

3 Q What's your best estimate?

4 A I wouldn't care to estimate.

5 Q Now, in this account that you put this money in in
6 the State Bank of Chanhassen, did you have any other sources
7 of deposit for moneys that went into that account?

8 A Right.

9 Q Your personal moneys went into that account?

10 A Right.

11 Q And who could write checks on that Chanhassen account?

12 A Myself and my wife.

13 Q Did you pay your personal bills out of that account?

14 A Right.

15 Q Did you pay bills on account of labor and materials
16 and construction of the Nursing Home on that account?

17 A No.

18 Q When you issued checks in round amounts such as 10 or
19 15 thousand dollars and transferred the funds from Ridge
20 Lutheran Home into your account at Chanhassen, did you contem-
21 poraneously the same day write a check in the same amount from
22 the Chanhassen Bank account to A & J Builders, Inc.?

23 A No.

24 Q How would you keep track of it?

25 A When I got the statement.

1 Q What do you mean? What could you tell from looking
2 at the statement?

3 A What was deposited.

4 Q When would you transfer the funds to A & J Builders,
5 Inc.?

6 A When it was necessary.

7 Q So whenever you felt it was necessary to put money in
8 A & J Builders, Inc., you would draw on your personal Chanhassen
9 account?

10 A Right.

11 Q And the necessity became apparent only as you would
12 look at the balance once a month, or maybe you had some more
13 frequent way of finding out, did you?

14 A Well, I had an idea.

15 Q You had a general idea?

16 A Right.

17 Q Did you balance your checking account each month, or did
18 you take the bank's word for the balance?

19 A We balanced it sometimes.

20 Q Sometimes. Do you know how to reconcile the bank state-
21 ment?

22 A Yes.

23 Q Did you reconcile it each and every month?

24 A No.

25 Q So you had a bank account where you didn't even reconcile

1 the bank statement?

2 A That's right.

3 Q Talking now about the Chanhassen Account?

4 A Right.

5 Q Did you handle the A & J Builders account the same
6 way?

7 A No.

8 Q Did you have a separate bookkeeper for A & J Builders,
9 Inc.?

10 A Right.

11 Q Who was your bookkeeper at A & J Builders, Inc.?

12 A Donald Anderson.

13 Q Is he related to you?

14 A No.

15 Q Do you know how much -- what total amount in dollars
16 in bonds were sold?

17 A No, I don't.

18 Q Now, on August 31, 1967, you drew a check for \$15,000.

19 I am referring now to a slip which gives the date of the check
20 and account number and the amount, which states, "Payment stopped.
21 Did you draw that check?

22 A Not that check, no. Not if it was dated August 31, '67.

23 Q What date was that?

24 A August 25, '67.

25 Q So that the day before you resigned, according to your

1 testimony, you drew a check for \$15,000. At the time you drew
2 the check, you knew you were going to resign the next day?

3 A No.

4 Q What did you intend to do with the \$15,000?

5 A Disburse it to Carl R. Anderson, A & J Builders.

6 Q In the same way as you had done before?

7 A Right.

8 Q And put it in your personal bank account; and when you
9 saw a need for it for A & J Builders, Inc., then you would
10 take it out of there?

11 A Right.

12 Q Now, you say you received over a million dollars by
13 various deposits into the Ridge Lutheran Home, Inc. Could you
14 tell us how much you drew out of Ridge Lutheran Home, Inc.,
15 yourself?

16 A I don't think I have drawn any.

17 Q I mean by checks payable to you personally? I have
18 showed you checks for the last three months for large sums of
19 money.

20 A It would be in the amount of a million dollars.

21 Q You disbursed out a million dollars, but it wasn't all
22 to you?

23 A All -- wait.

24 Q Now I am asking you how much of that million dollars
25 is represented by checks drawn to Carl R. Anderson.

1 A I don't know.

2 Q Who had the responsibility of paying for labor and
3 materials?

4 A Carl R. Anderson, president of A & J Builders.

5 Q So A & J Builders were making payroll payments to
6 workmen, right?

7 A Right.

8 Q And making payments to sub-contractors?

9 A Right.

10 Q And making payments -- did you have any direct con-
11 tracts yourself that you were performing?

12 A According to this agreement.

13 Q How many subs did you have?

14 A Oh, approximately 15, maybe.

15 Q You had a plumbing sub?

16 A Right.

17 Q Electrical sub?

18 A Right.

19 Q Who was the plumbing?

20 A Wenzel Plumbing and Heating.

21 Q They sued, didn't they?

22 A Right.

23 Q Suing you personally for \$75,000?

24 A A & J Builders.

25 Q Suing A & J Builders, Inc.?

1 A Yes.

2 Q And Carl R. Anderson for \$75,000?

3 A Right.

4 Q They had a mechanics lien against the Ridge Lutheran
5 Home, Inc.?

6 A Right.

7 Q And the electrical was done by what concern?

8 A Commonwealth Electric Company.

9 Q And how much do they claim to have coming?

10 A I don't know offhand.

11 Q Have they filed a lien?

12 A No.

13 Q Have they called you to say they were going to file a
14 lien?

15 A No.

16 Q Are you sure about that?

17 A Absolutely.

18 Q I've got news. They called me yesterday, said they
19 were going to file a lien.

20 A I see.

21 Q I am surprised that you haven't got that information.

22 A I haven't got it, no.

23 Q Now, for the purpose of the record, can you give us
24 what you think is the approximate amount which they have coming?

25 A Maybe got approximately 30,000.

1 Q Approximately. All right. Now, did you have a sep-
2 arate sub for the air conditioning?

3 A Right.

4 Q Who was that?

5 A Air Comfort.

6 Q And do they have an unpaid balance?

7 A Right.

8 Q Pardon me?

9 A Right.

10 Q Do you know how much that is?

11 A If I remember right, 18 hundred.

12 Q Eighteen hundred dollars?

13 A Right. It might be more now.

14 Q Now we have mentioned about three subs. Did you have
15 a separate sub-contract with the elevator people, Lagerquist?

16 A Right.

17 Q How much is owing on that?

18 A I don't know.

19 Q But there is a balance there?

20 A They haven't completed it yet.

21 Q The gates aren't in, but how about the inside mechanism?

22 A Some of that is in.

23 Q Who else? Who else have we got as sub-contractors
24 aside from general suppliers to the general?

25 A Ceco Company.

1 Q Ceco Company -- what did they do?

2 A Windows.

3 Q Were they window sub-contractors?

4 A Right, and doors. I mean this is special doors.

5 Q A special kind of doors?

6 A Right.

7 Q I have named five now. You will have to help us out,
8 by telling us what other sub-contractors there are? Would you
9 state what other sub-contractors there are?

10 A There's Honeywell.

11 Q That was for --

12 A That's for controls.

13 Q Controls. Now, I said before when we talked about
14 heating and plumbing -- that also includes heating, or is there
15 a separate contractor for heating?

16 A We undertook the other contracts -- there was supposed
17 to be one on the mechanical, and that was supposed to be Wenzel.

18 Q Winslow?

19 A Wenzel Plumbing and Heating.

20 Q You just told me Wenzel was off the job, and somebody
21 else was going to take it over.

22 A Right.

23 Q Did you have a separate contractor for the installation
24 of the furnace?

25 A That was under the mechanical.

1 Q That was under the mechanical. Now, what other sub-
2 contractors did you have?

3 A Well, we had various ones for sliding doors and tile
4 work.

5 Q At any rate, we will get to them at the appropriate
6 time for the detailed lists; but in almost every case you have
7 outstanding unperformed sub-contracts with balances owing in
8 various amounts to the sub-contractors, right?

9 A Right.

10 Q In addition to that, there are balances owing to
11 material men who haven't been paid by A & J Builders, Inc.,
12 or haven't been paid by their sub-contractors?

13 A I don't know about the sub-contractors, but I know
14 A & J Builders --

15 Q Owes quite a bit. Can you tell us who A & J Builders
16 owes -- I mean in the largest amounts?

17 A Well, we owe to people that have to perform work --
18 Ceco Company, Honeywell Company, Air Comfort, Bredemus Hardware.

19 Q How do you spell that?

20 A B-r-e-d-a-m-u-s.

21 Q I think that's B-r-e-d-e-m-u-s.

22 A Could be.

23 Q Well, how much do you think is owing altogether at
24 this point for work done and not yet paid for?

25 A Well, there isn't too much that isn't paid for that's

1 work done.

2 Q Yes?

3 A This work isn't done yet. This is why these aren't
4 paid, some of them.

5 Q Well, I know there is a \$75,000 lien filed by the
6 heating and plumbing contractor.

7 A Right.

8 Q And there's Mr. Wenzel -- at any rate, we are now in
9 the position of having an unfinished building with a consider-
10 able number of liens outstanding that were filed with the
11 Registrar of Titles office. What percentage of the construction
12 you say has been completed?

13 A Well, I would say that we have about two months' more
14 work to do.

15 Q Are you talking about 75 per cent completion, 80 per-
16 cent completion?

17 A I would say 80 per cent, probably.

18 Q In dollars what is your best judgment as to how much
19 money it would take to complete the building?

20 A I couldn't say that offhand, but I have this record --
21 I don't have it along.

22 Q You do have a record?

23 A A & J Builders.

24 Q What area are we talking about? Is it about 200,000,
25 250,000, 350,000? The judge is going to want to know what it's

1 going to take to finish this.

2 A Well, I just couldn't say offhand. I would have to
3 check it, see what -- this is to furnish it, too?

4 Q No, I didn't say anything about furnishings. I just
5 said how much would it take to finish the building. You have
6 got a building that's enclosed, isn't that right?

7 A Right.

8 Q It doesn't have any doors or windows on it?

9 A Right.

10 Q Is the heating plant in?

11 A Some of the frames are in, but the windows aren't.

12 Q Is the heating plant in complete?

13 A No.

14 Q What needs to be done?

15 A Steam fitters to finish it.

16 Q What needs to be done?

17 A Just run the rest of the pipes in for the chiller and
18 also for the heating system and cooling.

19 Q So when you are saying that needs to be done, you are
20 also referring to the air-conditioning system?

21 A For approximately -- I would say 80 per cent, according
22 to the man who was on the job.

23 Q Did you have unpaid claims for wages, moneys owing to
24 workmen?

25 A No.

1 Q There is a large installation as you approach the
2 front of the building on the outside. Can you tell us what
3 that's for? There is a large installation as you approach?

4 A That's the chiller-cooler.

5 Q Part of the air-conditioning system?

6 A Right.

7 Q Now, is the sewage connected? Is that in?

8 A No. It's to where it has to be, but it isn't connected.

9 Q Is there sewage in the street?

10 A No.

11 Q How far do you have to go to connect up with sewage?

12 A Just 138th Street.

13 Q Is there water connected to the building?

14 A It's out of the building to a manhole, but is not
15 connected.

16 Q And was there some sort of difficulty with the Village
17 of Burnsville about connecting up with the sewage or the water?

18 A No, no problems.

19 Q No problem?

20 A We can hook up any time.

21 Q How long would it take to hook up?

22 A A month.

23 Q You would have to run sewage lines from the building?

24 A Not from the building, from the manholes.

25 Q To 138th Street?

1 A Right.

2 Q Then down 138th Street to Nicollet?

3 A No.

4 Q Which way would you have to go from there?

5 A From the planned unit development it shows the way.

6 Q Well, will you show us where that would be by refer-
7 ence to Plaintiffs' Deposition Exhibit 2?

8 A Right in here, this general direction right here.

9 Q Pardon me. You have now turned to sheet No. 3, and
10 you pointed to the nursing home right here, and there -- where
11 is 138th Street?

12 A Right here.

13 Q 138th Street is just to the north of the nursing home?

14 A Right.

15 Q And the main water -- water main is in 138th Street?

16 A Right.

17 Q Is it in place now?

18 A Right.

19 Q And you would have to connect up from the nursing home
20 to 138th Street to get water?

21 A Under the planned unit development, we have it this
22 way --

23 Q When you say under the planned unit development, what
24 you are pointing to is your connections are directed toward
25 Nicollet rather than 138th Street.

1 A Just the sewer.

2 Q Just the sewer. This is because you considered it more
3 economical, more feasible in view of your future improvements,
4 to run the sewer into the direction of Nicollet Avenue?

5 A Right.

6 Q So that means that in order to connect up with the
7 sewer which I take it presently exists in Nicollet Avenue --

8 A The sewer exists at 138th and Nicollet.

9 Q In order for you as a nursing home to have a sewer,
10 the main would have to be extended from 138th and Nicollet
11 southward to a point approximately half way south into your
12 project from 138th Street?

13 A Right.

14 Q And this extension by Burnville into Nicollet has not
15 yet occurred?

16 A It won't. This is a planned development. This is
17 our sewer line.

18 Q Until such time as there is a planned unit development,
19 how do you propose to get sewage service?

20 A We have a manhole out here, run the sewage this way.

21 Q Yes, but there is no sewage in Nicollet Avenue south
22 of 138th Street.

23 A Nicollet Avenue has got sewage right here.

24 Q You are going to run your own sewer main on your pro-
25 perty down to 138th and Nicollet?

1 A This is controlled by the Planned Unit Development for
2 Ridge Lutheran Home, Inc.

3 Q How long would it take to get sewage that way?

4 A A month.

5 Q A month. Have you made arrangements to get sewage?

6 A No.

7 Q No arrangements have been made for water, either?

8 A We would put this in ourselves.

9 Q How will you put it in yourselves?

10 A Put it in just like anybody else puts it in.

11 Q Run a main to the street?

12 A Right.

13 Q That's 138th Street?

14 A 138th Street and Nicollet.

15 Q Is there water there, too?

16 A Right, but we'll take -- the sewer comes down here
17 and also water comes down here, but the water would be hooked
18 up here.

19 Q At 138th Street?

20 A Right.

21 Q But the sewer would go in the way you have described as
22 part of the planned unit development?

23 A Right.

24 Q Okay. And when you said that it would take about two
25 months to finish the building, you were including the work that

1 needs to be done for sewer and water?

2 A Right.

3 Q Now, when you said two months, were you including also
4 the time that is necessary to furnish, decorate and furnish?

5 A This is decorated.

6 Q It would include the decorating in the two-months'
7 period?

8 A Right.

9 Q And the furnishing would have to be by acquisition of
10 the necessary equipment?

11 A Right.

12 Q Has there been any specification or description of
13 the furniture and equipment that is going into the nursing
14 home?

15 A Right.

16 Q Has there been?

17 A Right.

18 Q Who has it?

19 A I have that -- I have that. It just shows the dif-
20 ferent placements of the furniture and the building.

21 Q Who prepared that?

22 A Quambeck and Associates.

23 Q Now, can you tell us what salaries you received since
24 this project started in June, 1966, as executive secretary of
25 Ridge Lutheran Home?

A None.

1 Q Have you received your 10 per cent of the profit as
2 specified in the contract Plaintiffs' Deposition Exhibit 1?

3 A No.

4 Q You just used the money as it came in and figured that
5 you would make an accounting at the end?

6 A Right.

7 Q Is that your thought. And have you used the money to
8 live on as you have gone along, for your living expenses?

9 A No.

10 Q Do you have any other source of income?

11 A A & J Builders.

12 Q Does A & J Builders have any other source of income
13 other than this contract?

14 A If we do work.

15 Q Since June, 1966, until the present time, has A & J
16 Builders, Inc., worked on any other project?

17 A Right.

18 Q Has it?

19 A Right.

20 Q Which ones?

21 A Will you repeat that again?

22 (The previous questions
23 were read.)

24 THE WITNESS: I'll retract that statement.

25 We only sold gravel. That's the only income we have have

1 had since that date, I believe -- pardon me, I'll take
2 that back. We received moneys for condemnation.

3 BY MR. EDELMAN:

4 Q How much did you receive from condemnation?

5 A Pardon me?

6 Q You received that \$4,000?

7 A No, nine.

8 Q It was nine thousand dollars for condemnation, and you
9 received some money from the sale of some gravel on this pro-
10 perty?

11 A Right.

12 Q And the condemnation money was from land which was
13 part of the property sold?

14 A Right.

15 Q Aside from that, did you have any other source of
16 earnings during all this period from June, 1966?

17 A This is right.

18 Q That was all?

19 A That's all.

20 Q So in fact to the extent that your living expenses in
21 the period since construction started exceeded the sums that
22 you are referring to in A & J Builders, Inc., that came out of
23 your Chanhassen account?

24 A No.

25 Q What did they come from?

1 A A & J Builders.

2 Q I see. Did you draw a monthly salary from A & J
3 Builders?

4 A No.

5 Q How much money have you drawn out of it?

6 A Draw the minimum, \$6,000.

7 Q How often?

8 A For minimal Social Security -- sixty eight hundred,
9 whatever it is.

10 Q You mean you draw 66 hundred a year?

11 A If that's the minimum.

12 Q For yourself and your wife?

13 A This is right.

14 Q Is that what you live on, 66 hundred a year?

15 A No.

16 Q How much does it cost you to live?

17 A My wife also works.

18 Q Who does she work for?

19 A She works for Edina School District.

20 Q Pardon me?

21 A She's a teacher in Edina.

22 Q How much does she make?

23 A Approximately 10, 12 thousand.

24 Q How many children did you say you have?

25 A Two children.

1 Q Where does A & J Builders, Inc., carry its account?

2 MR. MAGNUSON: I am going to object to
3 this question unless it be stipulated that it is only
4 for purposes of information, not for any purpose of
5 attachment.

6 MR. EDELMAN: I'm not talking about attach-
7 ment here. It's perfectly obvious that tremendously
8 large sums of money, without any idea of the funds he
9 is talking about -- emanating from Lutheran Home, Inc.,
10 went to his personal bank account; and at his conven-
11 ience and under his judgment, were transferred to A
12 & J Builders, Inc. I think the great likelihood is
13 that money belongs to Ridge Lutheran Home, Inc., and
14 he had better tell us or we'll find out in some other
15 way. I am not concerned with questions having to do
16 with attached or garnishment. We are talking about
17 information that is very important.

18 MR. MAGNUSON: With that explanation, he
19 may answer.

20 THE WITNESS: We used to do business with
21 Bloomington-Richfield National Bank -- Northwestern
22 National Bank, and also we do business with River Falls
23 National Bank, River Falls, Wisconsin.

24 MR. EDELMAN: River Falls National Bank and
25 Bloomington National Bank. We want it clearly understood

1 that if it's necessary in order to protect the rights
2 of the bond holders here, we will go after any assets
3 this man has no matter where it is, and by any means
4 available under the law.

5 BY MR. EDELMAN:

6 Q Now, did you receive -- you turned over some corres-
7 pondence to me the other day; and today we obtained some corres-
8 pondence from the postmaster. One of these was a letter from
9 the S. E. C., which I have handed to you. Have you received
10 any communication from the Securities and Exchange Commission
11 prior to this date?

12 A No.

13 Q And you are aware now that the S.E.C. has addressed a
14 communication to you?

15 A I am now.

16 Q And you are going to answer it?

17 A Whatever my attorney says.

18 Q Well, for the record, this is Certified Mail No. 547675,
19 which was addressed to you at 20 Arthur Terrace and was not
20 delivered. It apparently was addressed to you as executive
21 secretary -- an inquiry from Mr. Thomas P. Hart, Regional
22 Administrator, dated August 23, 1967, wanting to know what the
23 basis of your sale of Lutheran Welfare Bonds was. Did you see
24 this before?

25 MR. MAGNUSON: I have only glanced at it.

(A recess was taken.)

1 BY MR. EDELMAN:

2 Q Now, have you since found out when it was that Mr.
3 Vinge disposed of his stock in A & J Builders, Inc.?

4 MR. MAGNUSON: I do not have that inform-
5 ation.

6 BY MR. EDELMAN:

7 Q How many shares did he have when he had stock?

8 A Half.

9 Q He had half the stock and you had half the stock?

10 A My wife and I owned half of it together. I held
11 eight and she had seven shares.

12 Q Carl Anderson had eight shares, Mrs. Carl Anderson had
13 seven shares, and Vinge had fifteen shares?

14 A Yes.

15 Q Now, wasn't Julian Vinge the owner of that land that
16 we are talking about here before A & J Builders got it?

17 A Right.

18 Q So A & J Builders, Inc., acquired it from Mr. Vinge?

19 A Did what?

20 Q Acquired the land from Mr. Vinge?

21 A Right.

22 Q This acquisition was made in 1963?

23 A Right -- '62. We were incorporated in '63 -- or '62.

24 Q And did Mr. Vinge get his stock for the land that he
25 put into the corporation?

1 A Pardon me again?

2 Q Did Mr. Vinge get his stock for the land that he put
3 into A & J Builders, Inc.?

4 A I don't quite understand.

5 Q How did A & J Builders, Inc., get that land?

6 A We purchased it from Mr. Vinge.

7 Q Where did you get the money to pay for it?

8 A The property?

9 Q The money to pay for that property?

10 A We bought it from Mr. Vinge. We had a contract for
11 deed.

12 Q All right. Did you pay off this contract for deed?

13 A Right.

14 Q Where did you get the money to pay off the contract
15 for deed?

16 A A & J Builders.

17 Q Where did A & J Builders get the money?

18 A I imagine some of it came from Ridge Lutheran Home.

19 Q Do you know how much of it came from Ridge Lutheran
20 Home?

21 A No.

22 Q How much did you pay for your stock in the A & J Builders,
23 Inc.?

24 A When we started?

25 Q Yes.

A I don't remember offhand what I paid. I think it was

1 15 hundred. I don't remember now if it was or not.

2 Q All right. Now, you say the money to pay Mr. Vinge
3 for this land that he sold to A & J Builders came from Ridge
4 Lutheran Home?

5 A No, I didn't say all of it.

6 Q A substantial part of it. Now, tell me how much money
7 did Mr. Vinge get for the land?

8 MR. MAGNUSON: I am going to object to
9 that again as being irrelevant, the purchase price of
10 this property.

11 MR. EDELMAN: Are you refusing to answer
12 on instructions of Counsel?

13 MR. MAGNUSON: On this matter, in view and
14 in light of the circumstances, I will renew my objection
15 but permit him to answer over the objection.

16 THE WITNESS: We paid \$160,000.

17 BY MR. EDELMAN:

18 Q For how many acres?

19 A It was 152 and some tenths acres.

20 Q It was 152 and a fraction acres; and this 152 and a
21 fraction acres is larger than the tract of land which is
22 covered by the contract, Plaintiffs' Deposition Exhibit 1,
23 because here we are talking about 130 acres.

24 A Right.

25 Q Was there a part of that land, about 22 acres, that was

1 platted for residential lots?

2 A No -- well, part of it, right.

3 Q The difference between 152 acres purchased from Mr.
4 Vinge and 130 acres sold by A & J Builders to Ridge Lutheran
5 Home is approximately 22 acres?

6 A Right.

7 Q And that 22 acres has been sold off or platted for
8 private residences?

9 A Right.

10 Q Who owns those 22 acres now?

11 A Well, different people own them, the lots.

12 Q Are some of those lots still owned by Mr. Vinge or
13 by yourself or A & J Builders?

14 A A & J Builders, Inc.

15 Q A & J Builders, Inc., owns the lots that are not yet
16 sold?

17 A Right.

18 Q All right. And unless there is an accounting by some-
19 body who has access to all of these records of A & J Builders,
20 Inc., and the Anderson Bank account at State Bank of Chanhassen
21 and of the records of Ridge Lutheran Home, Inc., it isn't
22 possible to tell at this time just how much money was received
23 from Ridge Lutheran Home, Inc., by any of the parties to this
24 lawsuit, and how much was expended, is there?

25 A Right.

1 Q You would have to have an accountant, wouldn't you?
2 Isn't that true?

3 A I don't know if I need an accountant.

4 Q Well, you're not able to tell us?

5 A Certainly. I have the records, so I should be able to
6 tell you.

7 Q Only by going through those records could you begin to
8 get an answer to the questions that I am asking you concerning
9 what happened to the moneys received and the moneys expended?

10 A That's right.

11 Q Isn't that true?

12 A That is right.

13 Q Only by going through these records could we ascertain
14 how much of the money of the Ridge Lutheran Home, Inc., has
15 gone into the payment for this very land that we are talking
16 about, covered by this land purchase agreement, Plaintiffs'
17 Deposition Exhibit 1?

18 A Right.

19 Q All right. Now, did you have any arrangements with
20 anybody for permanent financing of this nursing home?

21 A Never had any permanent arrangement, no.

22 Q Did you talk to anybody about it?

23 A Right.

24 Q Did you figure you were going to ultimately pay for
25 this structure by keeping on with the program of selling bonds?

1 A And mortgaging.

2 Q You hoped to get a mortgage?

3 A Right.

4 Q From whom?

5 A I had talked to Eberhardt Company. They had the plans
6 and specs.

7 Q When did you talk to them?

8 A But I have no commitment.

9 Q You have no commitment?

10 A No.

11 Q When did you talk to the Eberhardt Company?

12 A Oh, May, April. I don't know the dates -- this year.

13 Q And what indication did they give you, even though
14 they haven't given you a commitment? Did they give you any
15 indication they would be interested in advancing moneys?

16 A Very much so.

17 Q How much did you apply for?

18 A Never applied. They were taking it up with different
19 people they were dealing with, and they told me they had talked
20 to people and I was to come in. And I didn't know whether
21 this was my obligation or not.

22 Q But you never did apply?

23 A No.

24 Q There has been no formal application?

25 A No.

1 Q You just talked to some people over there about maybe
2 four, five months ago?

3 A Right.

4 Q And nothing came of it?

5 A Well, -- right.

6 Q Now, isn't it a fact that Mr. Vinge severed his
7 connection with A & J Builders, Inc., about the same time as
8 you and he resigned from the membership of the Board of Dir-
9 ectors of Ridge Lutheran Home, Inc.?

10 A No.

11 Q Do you know when Mr. Vinge resigned from the Ridge
12 Lutheran Home?

13 A No.

14 Q Well, did you talk to him about it?

15 A Right.

16 Q As a matter of fact, his resignation was identically
17 in the same words as yours?

18 A He had his attorney draw his up.

19 Q He had his attorney draw it up; and it is just an acci-
20 dent that his resignation, dated August 30, is word for word
21 the same as yours?

22 A I don't know.

23 Q You don't know?

24 A No.

25 Q Did you discuss it with him?

1 A The resignation, right.

2 Q What did you say to him?

3 A Just said that I had resigned.

4 Q What did he say?

5 A He was very shook by this.

6 Q Why did he resign, did he tell you?

7 A He was just upset.

8 Q Did he tell you why he was upset?

9 A No.

10 Q Now, did you tell members of the Board, specifically
11 Mr. Vinge and Mr. Gronseth, that you would run this whole enter-
12 prize for the Ridge Lutheran Home, see to it that everybody was
13 protected?

14 A No.

15 Q Never made any such statement?

16 A Never.

17 Q Or anything like it?

18 A No.

19 Q And you never told them, "You don't have to worry; I'll
20 see to it that the bond holders are protected"?

21 A No, never.

22 Q Now, when you resigned on the 26th, did you make any
23 arrangements with anybody for a watchman for the building, or
24 did you just walk away from it?

25 A No. I watch it every day.

1 Q You watch the building every day?

2 A Right.

3 Q What do you do to watch it?

4 A I'm on the job. I go there every morning, every night,
5 see that the lights are on, just as we were during the con-
6 struction.

7 Q Are you on construction now?

8 A No.

9 Q When did you quit?

10 A I don't know what date it was.

11 Q Well, give me the approximate date.

12 A About a week ago.

13 Q A week ago -- about September 11 -- or thereabouts,
14 or the 12th, possibly. Today is the 19th.

15 A Might be a week and a half ago.

16 Q Did you quit before the papers were served on you, on
17 the 11th?

18 A I don't remember.

19 Q Did you remove any equipment from the premises?

20 A My equipment, yes.

21 Q Can you tell us what equipment you claim to be yours?

22 A Well, any equipment that's there.

23 Q What --

24 A That doesn't belong to any of the sub-contractors.

25 Q What did you remove?

1 A Well, I removed -- well, all hand tools, all the equip-
2 ment -- I've got a whole list of them.

3 Q Where is that list?

4 A I don't know -- I mean I don't have it with me.

5 Q What large items of equipment did you take, so we can
6 start to get to the details here?

7 A What large equipment?

8 Q Yes.

9 A Well, I have one loader there that I removed.

10 Q All right. Now, what is a loader?

11 A For excavating.

12 Q How much does that machine cost new?

13 A Oh, \$60,000.

14 Q Sixty thousand dollars. And was that paid for with
15 Ridge Lutheran Home funds?

16 A We mortgaged that when we bought that.

17 Q Mortgaged it to whom?

18 A Northwestern National Bank.

19 Q Who mortgaged it?

20 A A & J Builders, Inc.

21 Q And how much of a mortgage did you get on it?

22 A Forty some thousand dollars.

23 Q Who made the down payment on it?

24 A A & J Builders.

25 Q What other items of equipment did you take besides

1 the loader?

2 A A Bobcat.

3 Q What's a Bobcat?

4 A It's an excavating machine.

5 Q How much does that cost?

6 A Five or six thousand, something like that.

7 Q By the way, when was the loader purchased?

8 A It was purchased in '65.

9 Q Was that purchased after the agreement was made?

10 A No, before the agreement.

11 Q And when was your Bobcat purchased?

12 A That was purchased in 1966.

13 Q That was after the contract?

14 A Right.

15 Q Now, were you selling bonds before the contract was
16 made? Was Ridge Lutheran Home selling bonds in 1965?

17 A Right.

18 Q You were?

19 A Right.

20 Q In other words, --well, this agreement was on April 26,
21 1966. The sale of bonds started much earlier than that?

22 A Right.

23 Q And by the time that the agreement was signed, Ridge
24 Lutheran Home had a lot of money in its bank account?

25 A Right.

1 Q Proceeds of the sale of bonds?

2 A Right.

3 Q And you were in charge of that, too, because you be-
4 came executive secretary I believe early in March of 1965?

5 A Right.

6 Q Now, you were paying interest from 1965 on those bonds.
7 Where did you get the money to pay interest?

8 A From the bonds.

9 Q From the proceeds of the sale of bonds you were paying
10 people back their own money?

11 A That's right.

12 Q What's the status of the insurance? Do you have insur-
13 ance on the place now?

14 A Right.

15 Q Who has the insurance?

16 A The Farmers Group -- that's who the agent is.

17 Q What kind of insurance?

18 A Builders' risk.

19 Q Builders' risk insurance?

20 A Right.

21 Q Issued to A & J Builders?

22 A Right.

23 Q What about the fire insurance?

24 A That's the same.

25 Q That is included in the Builders' Risk?

1 A Right.

2 Q What about vandalism?

3 A I'm not sure how that is written on that policy. I
4 don't think we have vandalism.

5 Q What about public liability?

6 A Yes.

7 Q Is that part of the Builders' risk?

8 A Right.

9 Q Now, you walked off the job, you say, about a week ago.
10 Is your insurance still in force?

11 A Right.

12 Q On what basis?

13 A I have got a policy and it's in force.

14 Q Do you claim you are still working there?

15 A Well, I watch the building every day, on the job.

16 Q Do you do anything besides watching the building?

17 A No. That's about it.

18 Q You don't do any work there?

19 A No.

20 Q And when you pulled off your equipment, so far you
21 have told us about the loader and the Bobcat -- you didn't
22 intend to do any more work, did you?

23 A We would like to get this straightened out so we can
24 get back on the job, if there is a possibility.

25 Q You would like to get back on the job, complete the

1 building, is that right?

2 A Right.

3 Q How do you propose to do that? What is your plan for
4 it?

5 A Well, we will just have to get these things ironed
6 out.

7 Q How?

8 A Well, I'm willing to work at it any way I possibly can.

9 Q Now, you told us a few minutes ago that Mr. Vinge had
10 15 shares of A & J Builders, Inc. When Mr. Vinge sold his
11 15 shares, how much did he get for it?

12 A I don't remember offhand.

13 Q Who bought it? You or the corporation?

14 A The corporation.

15 Q A & J Builders, Inc. bought it?

16 A From Mr. Vinge.

17 Q How much money did you pay him?

18 A If I remember right, it was \$6,000.

19 Q In cash?

20 A I don't remember now how that was taken care of.

21 Q Your recollection is that A & J Builders, Inc., paid
22 Mr. Vinge \$6,000 for his 15 shares?

23 A Right.

24 Q And these 15 shares are now in the treasury, or how
25 does it stand?

1 A They are in A & J Builders.

2 Q Belong to A & J Builders, Inc?

3 A Right.

4 Q So Mr. Vinge now has been paid for the land out of
5 A & J funds?

6 A I forget now just how we did that. I would have to
7 check to see.

8 Q You are going to check and give us that information?

9 A Surely.

10 Q All right. But so far as you know, there was no other
11 way to pay Mr. Vinge except through A & J funds?

12 A Right.

13 Q In order to get a deed to the land?

14 A Right.

15 Q And since the date of this contract, April 26, 1966,
16 Plaintiffs' Deposition Exhibit 1, A & J Builders, Inc., has
17 had no income except through Ridge Lutheran Home with the two
18 exceptions of the proceeds of condemnation of a piece of land
19 on Nicollet Avenue, and some sand and gravel, isn't that right?

20 A I believe that's right, yes.

21 Q Isn't it fair to say that Mr. Vinge has been paid for
22 this land with funds that came originally from the Ridge
23 Lutheran Home?

24 A Not all of it.

25 Q Well, a substantial part?

1 A I don't know.

2 Q You don't have any way --

3 A I could check it.

4 Q But your records aren't in such shape that you can
5 give us the answer?

6 A Yes, I can.

7 Q You know some part of it came from Ridge Lutheran
8 Home funds?

9 A Right.

10 Q Prior to your organizing the A & J Builders, Inc.,
11 what was your employment?

12 A Prior to that I worked for Minneapolis Honeywell.

13 Q Now, as I understand it, you organized A & J Builders
14 Inc., in about 1963?

15 A Right. Wait a minute. I was with Orrin Thompson
16 prior to that.

17 Q You were with Orrin Thompson?

18 A Pardon me.

19 Q What were you doing for Orrin Thompson?

20 A I was a carpenter for Orrin Thompson.

21 Q How long were you a carpenter for Orrin Thompson?

22 A I don't remember.

23 Q What kind of carpenter work were you doing?

24 A I was in house construction.

25 Q Were you a carpenter on the job or were you foreman

1 or a supervisor?

2 A I was a carpenter on the job.

3 Q Just a carpenter on the job, never were a foreman or
4 supervisor?

5 A No.

6 Q You had never been a contractor before?

7 A Oh, yes.

8 Q When?

9 A Well, I have been in it since 1946.

10 Q You have been a contractor off and on?

11 A Right.

12 Q Did you ever go through bankruptcy?

13 A No.

14 Q Why did you stop being a contractor?

15 A Well, I don't know.

16 Q Well, let's -- what did you do in 1946?

17 A I was in the construction business. I did a lot of
18 construction work for the Cities Service Oil Company.

19 Q Under what name did you do business?

20 A Carl Anderson.

21 Q You built filling stations?

22 A A lot of them.

23 Q What kind of work did you do?

24 A Cement work, construction work of all types.

25 Q How long did you do that?

1 A Quite awhile.

2 Q Well, --

3 A I don't know how long. I just don't recollect how
4 long it was. Quite awhile.

5 Q From 1946 on, how many different jobs have you had?

6 A Oh, a lot of different jobs.

7 Q Talk a little louder.

8 A I have had quite a few jobs. I did quite a few jobs.

9 Q When did you first start working for Orrin Thompson
10 Company?

11 A Oh, that was in 1962.

12 Q '62?

13 A '61, somewheres in there.

14 Q Before that you worked for Honeywell?

15 A No. That was before I was even in the service, or
16 right after. I have forgotten just --

17 Q You don't know when you were with Honeywell?

18 A Well, it was back in '45, '46, '47, right after I
19 came out of the service.

20 Q You are very vague about this.

21 A I don't remember.

22 Q So your immediate job before you undertook your asso-
23 ciation with Mr. Vinge, A & J Builders, was as a carpenter?

24 A Oh, yes. I had a Union card. I did carpenter work.

25 Q When did you first meet Mr. Vinge?

1 A I don't know.

2 Q You don't know?

3 A No.

4 Q How long have you known him?

5 A I've known him for quite a few years.

6 Q Well, what is quite a few years?

7 A I don't know.

8 Q Fifteen years, ten years, five years?

9 A It's over five, over ten; say fifteen -- I don't know.

10 Q Since 1963 you were in business with him, A & J Builders
11 Inc. How did you happen to go into business with him?

12 A Because I knew him.

13 Q Well, how did you know him?

14 A As a friend, I suppose.

15 Q Did you ever work for him before?

16 A No.

17 Q As I understand it, as I get the picture, in 1963 you
18 organized A & J Builders, Inc.; and at that time you entered
19 into a contract to purchase the land from Vinge on a contract
20 for deed. It was then 152-plus acres, right?

21 A No.

22 MR. MAGNUSON: Would you read the last
23 question, please?

24 (The question was read.)

25

1 BY MR. EDELMAN:

2 Q For 160,000 dollars?

3 A No.

4 Q Well, what's wrong about it?

5 A Just that there's platted property.

6 Q What do you mean by platted property?

7 A Platted property. Right there in the concept you can
8 see it. It's platted.

9 Q When A & J Builders acquired this land from Vinge,
10 it was 152 acres, wasn't it?

11 A No.

12 Q How much was it?

13 A What you said you figured it. You said 130.

14 Q Well, 130 acres were sold by A & J Builders to the
15 Ridge Lutheran Home. I'm not talking about that. I am talking,
16 Mr. Anderson, about the land when it was acquired from Mr.
17 Vinge by A & J Builders.

18 A Okay. I said we acquired approximately 130 acres.

19 Q Then who owned the other 22 acres?

20 A Mr. Vinge.

21 Q Does he still own it?

22 A No.

23 Q And you told me before -- I think you testified that
24 some part of those lots are now owned by A & J Builders?

25 A This is right.

1 Q All right. Now, when did A & J Builders acquire that
2 land from Vinge? What year was it?

3 A '63, I would say.

4 Q '63. That's what they acquired for \$160,000?

5 A Right.

6 Q And as I understand you, now you are saying that the
7 \$160,000 price was for the 130 acres?

8 A Yes, sir.

9 Q Not for the 152?

10 A That's right.

11 Q All right. Now, before that time, before 1963, did
12 you know about this piece of land? Did you have any acquaint-
13 tance with it?

14 A Yes.

15 Q How did you know about it?

16 A Well, I had hunted out there. I think Mr. what's his
17 name had hunted out there, too.

18 Q You had hunted out there?

19 A Yes.

20 Q All right. Now, tell me, how did you happen to get
21 together with Mr. Vinge about this piece of land?

22 A A & J Builders.

23 Q How did you happen to get together, A & J Builders?
24 Can you tell us the circumstances?

25 A Well, we thought that A & J Builders should own this

1 piece of property.

2 Q Who is "we"?

3 A A & J Builders.

4 Q Who comprised A & J Builders when you say you thought?

5 A Mr. Vinge, myself and my wife.

6 Q So A & J Builders was organized by the three of you?

7 A This is right.

8 Q Now, tell me, how did you three get together?

9 A On the purchase of the property?

10 Q To go into business to acquire this property, to do
11 whatever you wanted to do with it.

12 A We wanted to plat it out into lots for houses.

13 Q Well, how did you happen to get together? Were you in
14 business with him? Did you have a business association? Where
15 did you meet him?

16 A I have known Julian Vinge like I say, for quite a few
17 years. I don't recollect how long it is. Probably known him
18 all my life. I don't remember when was the first time I met
19 him.

20 Q Now, are you aware, Mr. Anderson, that in the letters
21 that you turned over to me a few days ago that there were a
22 number of letters that were sent where people are still res-
23 ponding to your advertisements for investment, and they send
24 checks to purchase bonds?

25 A I don't know.

1 Q You don't know about it?

2 A No.

3 Q What, in your opinion, should be done with that money?

4 A In the best interests of the Ridge Lutheran Home.

5 Q What's that?

6 A I don't know.

7 Q Now, by way of recapitulation, then, you have produced
8 the checks which we have marked in the box -- I think Deposi-
9 tion Exhibit 3; and you have produced two cases, carrying
10 cases, brief cases, which contain the records of sales of
11 bonds. Did you have those records at home, at your place?

12 A Right. This is the way I brought them.

13 Q You brought these records from home?

14 A Right.

15 Q All right. And these checks that you also produced,
16 you brought from home?

17 A Right.

18 Q Now, did you produce any other records?

19 A I have everything here that was done in the business
20 up to the date I resigned.

21 Q Will you just describe generally what records you have
22 with respect to bonds?

23 A There were some bonds that were asked for that were not
24 signed for up to the date that --

25 Q You have some bonds that were --

1 A Signed by me.

2 Q Prior to your resignation?

3 A Right.

4 Q But haven't been signed by anybody else?

5 A Right.

6 Q Do you have folders or any kind of records to show who
7 the bond holders were and when the bonds were issued, giving
8 the denomination and the number of the bond and the registered
9 holder?

10 A Right.

11 Q Where are those records?

12 A In those books.

13 Q In the loose leaf books?

14 A In here, too.

15 Q One is a standard --

16 A There's two ledgers.

17 Q Ledgers -- you have two ledgers; and those ledgers
18 are bond holder records, right?

19 A Right. And there is some that the secretary hasn't
20 placed in the ledger yet.

21 Q Aside from that, what else have you produced?

22 A Well, she has other records in here.

23 Q Who has?

24 A The secretary.

25 Q What secretary?

1 A The one that worked in the office.

2 Q What's her name?

3 A Verna Olson.

4 Q Now, I earlier referred to the fact that there is a
5 redemption clause in your receipt and also in your bonds.
6 Were there considerable redemptions as you went along during
7 1965, '66 and '67?

8 A There wasn't a considerable, no.

9 Q Did you keep a record of redemptions?

10 A Yes.

11 Q Where is that record?

12 A In those books.

13 Q What books?

14 A In the ledgers.

15 Q In the ledgers. I have here a loose leaf record. What
16 is this, do you know?

17 A I don't know. That's something the secretary had and
18 Mr. Gronseth had.

19 Q You don't know what this is. Well, we have a hearing
20 set for 9:00 o'clock Thursday morning. Will you produce in
21 Court your ledgers with respect to bond holders and any other
22 records having to do with bond sales, receipts from bonds, dis-
23 bursements to bond holders; and also will you produce at that
24 time the exact record as to when Mr. Vinge sold his stock to
25 the corporation?

1 A Right.

2 Q And also what was -- exactly what was paid to him?

3 A Right.

4 Q Now, you have also produced today a book that is called
5 a minute book. For the record, it shows minutes of a meeting
6 on March 5, 1965; minutes of a meeting of March 24, 1965;
7 minutes of a meeting on May 26, 1965; June 22, 1965; June 29,
8 1965; August 9, 1965; and an unbound page referring to an
9 annual meeting on May 12, 1966, and with no other minutes.

10 A The minutes of the first meeting there --

11 Q The first minutes appears here -- March 5, 1965. That s
12 when you were named executive secretary.

13 A Here.

14 Q Oh, yes. And in addition, minutes of the first meeting
15 of the Board of Directors on February 12, 1965, naming you as
16 president.

17 A Right.

18 Q And will you produce these minutes at that time?

19 A Right.

20 Q Now, Mr. Anderson, did you ever tell any bond holders
21 that they would have a right to redeem their stock at any time
22 on 30-days' notice?

23 A I never -- just -- these things were sent out. I never
24 went through -- they were sent out to them through the office.

25 Q Well, did you ever have any conversation in person

1 with anybody in connection with the sale of Ridge Lutheran
2 Home, Inc., bonds?

3 A Personally?

4 Q Yes.

5 A Never personally.

6 Q Never personally?

7 A No.

8 Q And did you ever write any letters to anybody in which
9 you told him they could get their --

10 A This could be possible.

11 Q Could be that you told them?

12 A The secretary would write this letter, and Mr. Gronseth.

13 Q And you would sign it?

14 A This is right.

15 Q You signed letters to people saying that?

16 A I don't remember if I did or not.

17 Q I see. As a matter of fact, the wording of the bond
18 is that the option of redemption is in the corporation, in the
19 Lutheran Home, and not in the holder of the bond.

20 A Right.

21 Q The holder, according to the wording of the bond, does
22 not have a right to redeem.

23 A Right.

24 Q And you have in fact told people --

25 A Mr. Gronseth did this on occasions where he said the

1 people would write in, and he would state to them that in case
2 of emergency, they would have the right to redeem because this
3 is a church program, and we would certainly help them in any-
4 way we possibly could.

5 Q Now, in this Plaintiffs' Exhibit 4, which is the first
6 item -- it came from your home -- you told the investors that
7 the projected earnings from the nursing home for 1966-67 were
8 \$220,250; '67-'68, \$314,500; the same for 1968-'69 and 1969-'70.
9 Then they would jump to \$350,250. Now, on what basis did you
10 give them that information?

11 A Through the Providence Church Plan.

12 Q Who was Providence Church Plan?

13 A Oh, they were some people we were involved within the
14 bonding program -- we weren't involved with them; I believe
15 the Board would not accept the contract or resolutions.

16 Q And you were passing on to these prospective investors
17 these figures as to what would be the anticipated income from
18 the operation of a nursing home?

19 A Right.

20 Q What did you understand about the projected figures
21 with respect to anticipated gifts -- what do you mean by that?

22 A Well, gifts that would come into the home. This was
23 set forth by Providence Church Plan.

24 Q That is, the home after it was operating, could anti-
25 cipate that people as a matter of benevolence and charity would

1 make gifts to the home?

2 A Right.

3 Q And this would be additional income?

4 A Right.

5 Q Where is the Providence Church Plan place of business?

6 A I don't know offhand where it's at.

7 Q Did you retain them as an advisor-consultant of some
8 kind?

9 A No.

10 Q How did you happen to come to them?

11 A Well, this is through a -- Mr. Gronseth, that we got
12 acquainted with Providence Church Plan.

13 Q Well, they furnished you a prospectus as a consultant,
14 and apparently they told you how much you could expect?

15 A This wasn't the way it was set up, no.

16 Q Well, where did this information come from?

17 A From Providence Church Plan.

18 Q Well, then they did furnish you information to guide
19 you in making representations to investors as to how much money
20 could be expected?

21 A This is right.

22 Q All right. Now, as a matter of fact, you were paying
23 these investors without reference to any revenue. You were
24 paying them interest up until September 1, 1967, out of the
25 proceeds of the sales of bonds?

1 A I believe that would be the way you would put it.

2 Q You didn't disclose that in your statement, did you?

3 A I don't know if we did or not, or if it ever has been.

4 Q Did you ever see that in any of your literature, that
5 people would be paid out of the proceeds of the sale of bonds
6 until such time as the home was completed and received revenue
7 and that the revenue you are talking about there wouldn't be
8 available to you until the project was completed, isn't that
9 right?

10 A I suppose.

11 MR. EDELMAN: Well, I think we've got
12 enough for today.

13 (Discussion off the record.)

14 MR. MAGNUSON: I do wish to examine him
15 about certain questions.

16 REDIRECT EXAMINATION

17 BY MR. MAGNUSON:

18 Q First of all, Mr. Anderson, reference was made to some
19 sand and gravel located upon the property. This is some washed
20 sand and gravel that has been prepared for resale and has existed
21 for some years, is this correct?

22 A That's not washed sand and gravel. It's material taken
23 and mixed or classified in B. A.2.

24 Q This is located in a stockpile out on the property?

25 A This is right.

1 Q In addition to that, you have cut -- strike that ques-
2 tion. Approximately when was that stockpile made?

3 A Approximately 1963.

4 Q And in addition to this, you have cut rough grades of
5 the streets in this property according to the proposed plan
6 and layout, is this correct?

7 A Right.

8 Q In so doing, you have had reason and cause to either
9 remove certain earth from various locations, place it in other
10 locations, or to use that in stockpiling gravel?

11 A Right.

12 Q And this property is in fact located upon a gravel
13 deposit generally?

14 A Right.

15 Q Reference was made to a cost-plus basis of work on the
16 construction of various buildings within this plan. If and in
17 the event you were to construct a building, you then anticipated
18 an income of ten per cent over and above the actual cost of
19 construction and materials?

20 A Right.

21 Q If you did not construct the building, what would your --
22 what would be the situation?

23 A It would be seven per cent.

24 Q And in any circumstance, would there be any circum-
25 stance where you would combine them to take 17 per cent?

1 A No.

2 Q How would a 7 per cent situation occur?

3 A Upon supervision of the work on whoever was constructing.

4 Q Is that a usual charge in like and similar circumstances
5 in construction circles?

6 A This is right.

7 Q Can you tell me why Mr. Hauptman and Mr. Pleuss left
8 the Board of Directors?

9 A Through the problems we had with Providence Church
10 Plan.

11 Q And also Mr. Burgdorf -- can you tell me why he left?

12 A I was told -- I never talked directly -- in his letter
13 he just said he resigned. I heard indirectly he resigned
14 because he was taking on some duties with his church.

15 Q Mr. Anderson, given the time to do so, could you make
16 a complete accounting of the moneys taken in from Ridge Lutheran
17 Home to your personal account and the disbursement of these
18 moneys from your personal account to A & J Builders?

19 A I hope I could.

20 Q And also given the time, could you make a complete
21 accounting of the disbursement of funds by A & J Builders as
22 it relates to this project?

23 A Right.

24 Q Relating to accounting of money, was there a ledger
25 sheet kept by Ridge Lutheran Home?

1 A Just what we have here.

2 Q And did you desire that a ledger be kept?

3 A Right.

4 Q And why was there no ledger kept?

5 A Because Mr. Gronseth never took it upon himself to do
6 it.

7 Q Did you ever instruct Mr. Gronseth to prepare a ledger
8 sheet?

9 A Right.

10 Q Did you ever instruct Mr. Gronseth to prepare a full
11 balance sheet of income and loss and net worth of the corpora-
12 tion?

13 A Right.

14 Q Did he ever so prepare?

15 A No, not that I know of.

16 Q Who is Mr. Gronseth?

17 A Well, Mr. Gronseth used to live next door to me, in
18 back of me in fact. That's how I got to know Mr. Gronseth.

19 Q Was Mr. Gronseth an employee of the Ridge Lutheran
20 Home, Inc.?

21 A Yes.

22 Q And approximately how long?

23 A Well, correct me on that. His services were being
24 rendered by Ridge Lutheran Home.

25 Q They were being rendered to Ridge Lutheran Home?

1 A Right.

2 Q Was he on the payroll of Ridge Lutheran Home?

3 A No. He was paid by check to him for his services.

4 Q Paid by check from Ridge Lutheran Home?

5 A Right, and also Carl Anderson.

6 Q How much was he being paid?

7 A At the time of my resignation he was being paid \$1,150
8 a month.

9 Q And how do you say that he was paid by both Ridge
10 Lutheran Home and Carl Anderson? Would you explain that?

11 A Well, because we were garnished and I had to pay him
12 from the Carl Anderson account.

13 Q I see. But at all other times he was paid by Ridge
14 Lutheran Home?

15 A Right.

16 Q How long had he been in the employ of Ridge Lutheran
17 Home?

18 A Well, just about from the beginning.

19 Q What were his duties?

20 A Well, his duties were to take care of the office.

21 Q And in so doing, was he in charge of the sale of bonds
22 and such items?

23 A This is right.

24 Q Now, Mr. Anderson, relating to the property of the
25 varying acreages involved, what was the total acreage that you

1 contemplated to sell to Ridge Lutheran Home?

2 A Everything but Nicollet Terrace -- all the property
3 that was not under condemnation and that property as the
4 planned unit development shows.

5 Q Now, you made reference to Nicollet Terrace.

6 A Right.

7 Q That was excluded from the property being sold to --

8 A Right.

9 Q How many acres are there in Nicollet Terrace?

10 A I don't know offhand.

11 Q Approximately?

12 A About 20 acres.

13 Q Now, I believe from the proposed plot that we had here
14 there is a showing on there of a 35E Highway.

15 A Right.

16 Q Will that also reduce the number of acres sold to Ridge
17 Lutheran Home by A & J Builders?

18 A We just sold the property in the planned unit develop-
19 ment.

20 Q Therefore the highway would be excluded?

21 A Yes, sir.

22 Q Do you know how many acres there are approximately
23 in the highway exclusion?

24 A Approximately 18 acres.

25 Q Showing you Plaintiffs' Deposition Exhibit No. 4, the
brochure entitled "Ridge Lutheran Home" on the front, did you

1 prepare this exhibit yourself?

2 A It was done by people at Ridge Lutheran Home, Inc.

3 Q It was done by people --

4 A R.K.B. Studios.

5 Q Was it done under the direction of Providence Lutheran
6 or was it done under the direction of Ridge Lutheran Home, Inc.?

7 A Under the direction of Ridge Lutheran Home, Inc.

8 Q I see on this paper that it refers to Mr. Walter Schweppe
9 as attorney for Ridge Lutheran Home, Inc. Does he now serve
10 in that capacity?

11 A Well, we don't use him now, no.

12 Q Has he served in this capacity since April of 1966?

13 A Well, he approved our bonds and stuff.

14 Q I see... So he handled the legal affairs as they related
15 to the bonding program?

16 A The the corporate functions, yes.

17 Q Now, Mr. Anderson, up until the time of your resigna-
18 tion in August of 1967, had there been any delinquency in the
19 payment of either interest on bonds or upon principal on bonds
20 that were redeemed?

21 A No.

22 Q Had any people ever made requests for redemption of
23 their bonds prematurely?

24 A Right.

25 Q What did you do with those situations?

A We redeemed them.

1 Q Now, relating to the month of August of 1967, did you
2 at that time make preparation to make payments of interest
3 upon bonds on September 1, 1967?

4 A Right.

5 Q Until the time that you resigned, had payments been
6 made?

7 A No.

8 Q Could you tell me why payment had not been made?

9 A Well, the secretary wasn't able to work and finish
10 the completion of the checks. She had the envelopes, and these
11 were removed so she was unable to work.

12 Q Okay. Now, what are these envelopes?

13 A These are bond holder envelopes that go to the bond
14 holders to pay interest checks.

15 Q The secretary was individually typing these?

16 A Right.

17 Q These addresses?

18 A Right.

19 Q Have the checks been made out?

20 A She had part of them made out. She had one book done,
21 started on the other one.

22 Q What happened to those envelopes?

23 A Well, Mr. Gronseth moved the envelopes, and no way we
24 could continue.

25 Q Did you give him authority to remove those envelopes?

1 A No.

2 Q Did you request that he return the envelopes?

3 A Yes.

4 Q Did he return the envelopes?

5 A No.

6 Q In addition to this, you state certain checks had been
7 made out. What happened to those checks?

8 A Mr. Gronseth removed the checks from the office and
9 from the suitcase.

10 Q And did you have full intention and knowledge of your
11 own that it would be possible to make the payments of interest
12 on these bonds due September 1, 1967?

13 A This is correct.

14 Q Now, who signed the bonds such times as bonds were
15 sold? While you were with this company?

16 A Luther Gronseth and myself; and at one time Mr. Linse
17 signed them. And I have bonds mailed that have the words
18 of Providence Church Bonds that Mr. Linse has signed.

19 Q Now, has Mr. Linse at any time refused to sign the
20 bonds for which there were subscriptions?

21 A Right.

22 Q Can you tell us what happened or what caused him to
23 refuse to sign them?

24 A He came out to the job and -- I called him -- I heard
25 that Mr. Gronseth wanted to talk to me; I called him and he came

1 out to the office. Then I showed him the books and records;
2 and at this time there was nothing discussed about any auditing,
3 and that the main issue of the thing was that Mr. Gronseth
4 should have more money.

5 Q This was more money in terms of salary for Mr. Gronseth?

6 A Right.

7 Q This, I take it, then occurred during the month of
8 August of 1966?

9 A This is right.

10 Q There has been previous reference to a Board Meeting
11 which you did not attend. Could you tell us why you did not
12 attend this Board meeting?

13 A When this was called, I was out of town.

14 Q Where were you?

15 A I was up at my folks' at the lake. Mr. Vinge called
16 me, told me when I was there that he could not make it because
17 of a funeral that came up, and he had to be at the funeral.

18 Q Now, where is this lake that you are referring to?

19 A Up at my folks' place at Emily, Minnesota.

20 Q Approximately how far is that?

21 A Oh, 150 miles.

22 Q And you were on vacation at that time?

23 A I was not on vacation; I was out for a few days.

24 Q Mr. Anderson, have you at any time refused to disclose
25 to any person on the Board of Directors or any bond holder any

1 information relating to the finances of Ridge Lutheran Home
2 or the construction of the nursing home thereon?

3 A Never.

4 Q And are you willing at this time to make a complete
5 disclosure as it is possible to make a disclosure, relating
6 to both Ridge Lutheran Home, your personal finances, and A & J
7 Builders?

8 A Very much so.

9 Q Mr. Anderson, you have made reference to Mr. Gronseth's
10 taking records and envelopes from your custody.

11 A Right.

12 Q Did this cause you to write a letter to Mr. Gronseth
13 on August 3, 1967, terminating his services with Ridge Lutheran
14 Home?

15 A Repeat that, please?

16 (The question was read.)

17 THE WITNESS: No, I don't believe it did.

18 BY MR. MAGNUSON:

19 Q Did you write a letter to Mr. Gronseth terminating his
20 services on August 3, 1967?

21 A Yes.

22 Q And for what reasons did you write this letter?

23 A I wrote this letter -- I asked him when this program
24 started to do some things as far as a record of what he had
25 done, what he was doing, and he absolutely refused and never

1 would give it to me. He said he was going to do it, and never
2 did.

3 Q What was Mr. Gronseth's reply to this?

4 MR. EDELMAN: That is objected to as hear-
5 say. He is not a party to this action.

6 MR. MAGNUSON: I take it from the complaint
7 in this action Mr. Gronseth is president of the com-
8 pany.

9 MR. EDELMAN: He's not a party to this
10 action.

11 MR. MAGNUSON: As president of the company,
12 I think he becomes a party. Well, we will pass this
13 for the moment.

14 BY MR. MAGNUSON:

15 Q In the past year has Mr. Linse at any time requested
16 an accounting from you of the situation as it relates to the
17 finances of the Ridge Lutheran Home?

18 MR. EDELMAN: Would you read that back?

19 (The question was read.)

20 THE WITNESS: No.

21 BY MR. MAGNUSON:

22 Q And has Mr. Linse at any time discussed with you the
23 program of the sale of bonds in the last year?

24 A No.

25 Q Has Mr. Linse at any time discussed with you the progress

1 of the construction of the nursing home and the property?

2 A No.

3 Q Showing you Plaintiffs' Deposition Exhibit No. 1, the
4 agreement, two sheets, has this agreement been discussed by
5 you with all members of the Board of the Ridge Lutheran Home?

6 A Right.

7 Q And had all members of the Board of Ridge Lutheran
8 Home --

9 A They commented on some things, and this was changed to
10 their satisfaction.

11 MR. MAGNUSON: I don't think I have any
12 more questions.

13 MR. EDELMAN: Just a few questions.

14 RECROSS-EXAMINATION

15 BY MR. EDELMAN:

16 Q Mr. Anderson, how often was the interest to be paid on
17 the bonds?

18 A Twice a year.

19 Q Wasn't there about a million and a half dollars of bonds
20 outstanding?

21 A Right.

22 Q And 6 per cent on a million and a half dollars was
23 90,000 -- 6 and three quarters per cent was what you were paying?

24 A Right.

25 Q And 6 and three-quarters per cent would be in the

1 neighborhood of a hundred thousand dollars?

2 A Right.

3 Q So --

4 A Per year.

5 Q So the September semi-annual installment would have
6 required \$50,000?

7 A Right.

8 Q Do you know what the balance was on September 1 in the
9 bank?

10 A Sure.

11 Q How much was it?

12 A After I wrote a check, they had a thousand dollars in
13 there.

14 Q They had a thousand dollars. So did you have enough
15 money to pay interest on September 1?

16 A Right.

17 Q Where would it have come from?

18 A Carl Anderson would see that it would have been there.

19 Q Carl Anderson would see that it would be there?

20 A If I had to mortgage my property, it would have been
21 there.

22 Q On that day did Ridge Lutheran Home -- on September 1,
23 1967, did it have more than a thousand dollars in its bank
24 account?

25 A I don't know on September 1.

1 Q On August 1 how much did it have?

2 A Well, I don't remember.

3 Q Well, showing you -- here is the First National Bank
4 of Hudson checking account, statement as of the beginning of
5 the month. It shows a balance of \$17,380.13. Do you take
6 issue with that?

7 A That is correct.

8 Q And at the end of the month it had a balance of \$11.42
9 as of September 1.

10 A Well, if that's what it says.

11 Q And during the month you wrote two checks to yourself
12 for \$10,000 and \$15,000, which cleared?

13 A Right.

14 Q And you say that there would be funds because Carl
15 Anderson would make the funds available?

16 A Right.

17 Q Did you ever, prior to September 1, 1967, ever draw a
18 check to make funds available for interest?

19 A I made money available to get this organization going.

20 Q Did you ever make money available specifically for
21 interest prior to that time?

22 A No.

23 Q All right. Now, Mr. Anderson, according to the contract,
24 if you sold 130 acres at \$7,000 an acre, you would ultimately
25 get \$910,000.

1 A I said I sold the planned unit development, not acreage.

2 Q Mr. Anderson, will you please answer the question?

3 Your sale was at \$7,000 an acre, wasn't it?

4 A Right.

5 Q And 130 acres, right?

6 A Whatever is in the planned unit development.

7 Q There were 130 acres covered by this contract, am I
8 right?

9 A Right.

10 Q So ultimately 130 acres -- if performed, the contract
11 would have brought in \$910,000?

12 A Right.

13 Q And you paid only \$160,000?

14 A Right.

15 Q So your profit would have been \$756,000?

16 A Correct.

17 Q Okay. And in addition --

18 A Not my profit. That's not profit.

19 Q Your gross profit, your gross profit of \$756,000. And
20 in addition, you got \$9,000 condemnation money?

21 A Right.

22 Q In addition to that, you got \$4,000 gravel money?

23 A Approximately, right.

24 Q And you contend that is fair and reasonable in your
25 dealings with --

1 A I think this is fair and reasonable, yes.

2 Q All right. And in addition to that, on the construc-
3 tion contract you were to get 10 per cent of all money --

4 A I have seen contracts that get 15 per cent.

5 Q All right. Now, I went through all these checks.

6 Is it true that in all the bank accounts that we have mentioned,
7 the three bank accounts, that all of the checks drawn from
8 moneys -- withdrawing moneys from the Ridge Lutheran Home, Inc.,
9 bank accounts, whether they were from Marquette or Valley
10 National or First National of Hudson, were all signed by
11 Carl Anderson?

12 A Right.

13 Q Every last one?

14 A This is right.

15 Q Nobody else signed any checks?

16 A No.

17 Q Right. So when you say that you were making prepara-
18 tions just prior to September 1 for the payment of interest,
19 you were talking about what you intended to do out of your
20 moneys?

21 A I am saying that --

22 Q You would have raised money somehow -- you say you
23 would have mortgaged your house?

24 A That's right. I have.

25 Q And on August 26, five days before the interest was due,

1 you quit, didn't you?

2 A Sure -- I didn't quit at that time, no. You mean I
3 resigned.

4 Q You resigned.

5 A Right.

6 Q Didn't you say you wanted to be shut of all responsibi-
7 lity?

8 A I was forced to resign.

9 Q Who forced you?

10 A For the simple reason I couldn't carry out my respon-
11 sibilities.

12 Q At the time, August 26, you said in your letter of
13 resignation, "I wish to be relieved of all further respon-
14 sibility." Did you feel you had a responsibility on that day
15 to see that the interest was paid?

16 A On the day I resigned?

17 Q Yes.

18 A Absolutely.

19 Q Nevertheless, you say, "I wish to notify you that I
20 am resigning as president, executive secretary, and from the
21 Board of Ridge Lutheran Home, Inc., and wish to be relieved
22 of all my responsibilities and duties immediately," right?
23 Now, you say that a year before, back in 1966, Dr. Linse refused
24 to sign any more bonds, is that right?

25 A That's what -- I heard this from Mr. Gronseth.

1 Q Didn't he tell you that directly?

2 A I don't think he did.

3 Q Didn't you just testify he came out to talk to you?

4 A He came out and we talked about Mr. Gronseth's salary.

5 Q Didn't he talk to you also about the fact that this
6 whole thing was wrong?

7 A Absolutely not.

8 Q And he demanded an accounting?

9 A Absolutely not.

10 Q And this was the reason why he refused to have his
11 signature on any bonds any more?

12 A Absolutely not.

13 Q All right. Now, you say you are willing to come to
14 Court and be honest?

15 A Absolutely.

16 Q And fair, and disclose everything?

17 A Right.

18 Q Will you bring the records of the A & J Builders
19 showing all the moneys received and disbursed by you, including
20 your bank statements?

21 A If I can get them together, I will.

22 Q Will you bring your personal records?

23 A If I can get it all together, I will.

24 Q Canceled checks and deposits at the State Bank of
25 Chanhassen?

1 A If I can get things together.

2 Q And of River Falls. Now, you have said that you
3 haven't denied anybody any accounting. Isn't it perfectly
4 obvious that dealing with a million and a half dollars in the
5 last year and a half or two, that in all fairness to these bond
6 holders that you should have had an accounting record? Isn't
7 that obvious now that you look back, don't you agree?

8 A I tried to -- this I agree to.

9 Q Did you ever hire an accountant to make an analysis?

10 A No.

11 Q You were the man that was the executive director?

12 A I had a lot of problems.

13 Q But this problem you didn't attend to.

14 A I certainly tried.

15 Q You didn't hire an accountant to come in, make this
16 report which we so desperately needed?

17 A Never did, no.

18 MR. EDELMAN: I think that's all. Will
19 you waive reading and signing so we can have this avail-
20 able for the Judge Thursday morning?

21 MR. MAGNUSON: Yes. I might at this time
22 for the benefit of my client state that you do, under
23 the circumstances, have the right and privilege to
24 read and sign the deposition as to its accuracy before
25

1 presentation in the Court. However, I would recommend
2 to you that you do waive the reading and signing of
3 the deposition. We do have confidence in our reporters.

4 THE WITNESS: Yes.

5 MR. MAGNUSON: And waive Notice of Filing.

6 (Witness excused.)

7 * * * * *

1 STATE OF MINNESOTA)
2 COUNTY OF HENNEPIN)

SS:

3 I, Marjorie O. Franklin, a Notary Public
4 in and for the County of Hennepin and State of Minnesota, do
5 hereby certify that the foregoing deposition of Carl R. Anderson
6 was taken on behalf of the Plaintiffs in a certain cause now
7 pending and undetermined in the District Court of the State
8 of Minnesota, First Judicial District, County of Dakota, before
9 me at 1200 Builders Exchange Building, Minneapolis, Minnesota,
10 on September 19, 1967.

11 That said witness was duly sworn by me;
12 that said deposition was taken down in stenotypy and after-
13 wards transcribed into typewriting under my supervision; and
14 that the foregoing is a true and complete transcript of said
15 testimony.

16 By agreement of counsel reading and signing
17 by the witness was waived.

18 I further certify that I am not related to
19 any of the parties or counsel before named, and I am not
20 interested in this matter directly or indirectly.

21 IN WITNESS WHEREOF I have hereunto set my
22 hand and seal this 21st day of September, 1967.

23 *Marjorie O. Franklin*
24 Marjorie O. Franklin - Notary Public
25 Hennepin County, Minnesota

My commission expires February 27, 1974.