



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

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*I have original
your*



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

March 20, 1969.

Mr. John Finnegan,
16 East Fremont Street,
Butte, Montana.

Dear Mr. Finnegan:

Returned herewith is the \$5.00 check made out to you that you enclosed with your letter of March 16 to Chairman Martin. I am sure you will realize, on reflection, that it is not possible for the Federal Reserve to force merchants or other citizens to cash checks of other people when they wish for one reason or another not to do so.

While you are critical of Federal Reserve notes, I do feel quite sure that you will find all these people perfectly willing to accept them at par with no further questions.

Sincerely yours,

Charles Molony

Charles Molony,
Assistant to the Board.

Enclosure.

*Respondents' ex RR
lmf 2/16/70*

42174

John Finnegan
16 E. Fremont St.
Butte, Montana
March 16, 1969

William McChesney Martin, Jr.
Chairman of the Board of Governors, of
The Federal Reserve Banks
Washington, D.C.

Dear Mr. Chairman:

You are the one man I have avoided writing to. I know the power you wield, and the control of America you have through its monetary policies, but when I am embarrassed in trying to cash a \$5.00 check, then I start looking for the source of the trouble, and this trouble stems from the Federal Reserve Banks and those that are running this System.

In 1913 a group of traitors in Congress delegated the running of our Monetary Policies to the Federal Reserve System, but now, that this Monster is created, it is reaching out and dictating to our Congress how to run our Fiscal Affairs. You, as chairman of the Federal Reserve Board, gave Congress the alternative of either, them putting on a Surtax, or you raising the interest rates. You, yourself know, that, raising either one only causes more inflation. This was brought out very clearly in the Senate Finance Investigation of 1957. Also brought out, was, to get tight money, higher interest rates are to be used in conjunction with a substantial down payment. It seems to me, that all you are interested in is higher taxes, higher interest and more inflation.

In the 1957 Financial Investigation you said, the objective of the Federal Reserve System operation, was to promote monetary credit conditions that will foster sustained economic growth together with stability in the value of the dollar. You admitted, that it took the Federal Reserve Act plus the Employment Act of 1946 to get this objective, thus giving you a controlled currency and a controlled economy. You said, you thought you were doing a good job of curbing inflation at that time, and here you are twelve years later still hollering that you will stop inflation with a Surtax or higher interest. You got the Surtax and you raised interest rates, and in so doing you only tied a can of gasoline to the dogs tail.

When I put my signature on a check, I expect it to be as valid as any Federal Reserve Note. Why have you not worked to eliminate the discrepancies in the checking operations of the Federal Reserve System, instead of dictating to our Congress, overstepping your bounds and trespassing on our Fiscal affairs?

Our County Treasurer's Office has signs, "No checks cashed or accepted except for payment on Property Taxes". The Federal Reserve Banks could eliminate all these unfair practices, by accepting the entire loss on bad checks. Your cost for your Federal Reserve Notes is nil, so it should not bother you one bit. The way it is now the crook can cash a check, and

the account holder, sometimes, finds it impossible to cash his own personal check; this according to where he finds himself.

I am sending you this check to cash just as I tried to cash it at the store. If you or anybody else connected with the Federal Reserve Banks think I am running all over creation to get a check cashed, you are mistaken. I have even brought these out of town checks up to my own bank, and I'm always asked if I have an account there. Why should I have to have an account there to be able to have a check cashed? Further-more the store where I tried to cash this check has been cashing my personal checks for years. If this check is no good, neither is your Federal Reserve Notes.

Will close with Best wishes

Sincerely Yours

John Finnegan

John Finnegan

I certify this document to be a true
copy of the original on file herein

Jack G. Collins
Assistant United States Attorney
of Attorneys for Defendant

SIDNEY I. LEZAK
United States Attorney
District of Oregon
JACK G. COLLINS
First Assistant U. S. Attorney
506 U. S. Courthouse, Box 71
Portland, Oregon 97207
226-3361, Ext. 1531
Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ERVIN HARING,

Plaintiff,

v.

FEDERAL RESERVE BANK OF SAN FRANCISCO,
CALIFORNIA, PORTLAND, OREGON BRANCH,

Defendant.

CIVIL NO. 69-735

DEFENDANT'S MOTION TO DISMISS
PLAINTIFF'S COMPLAINT

Defendant Federal Reserve Bank of San Francisco, California, Portland,
Oregon Branch, moves this Court for an order dismissing plaintiff's Complaint and
action. This motion is made pursuant to Federal Rules of Civil Procedure
12(b)(1), (2), (6), and (7), and 7(b).

Defendant will further rely upon the propositions of law and authorities
set forth in its memorandum in support of this motion and upon the records and
files of this action.

Dated this 9th day of February, 1970.

SIDNEY I. LEZAK
United States Attorney
District of Oregon

Jack G. Collins
JACK G. COLLINS
First Assistant United States Attorney
Attorneys for Defendant

42174

*Respondents' W & Q
eng 2/16/70*

1 CERTIFICATE OF SERVICE BY MAIL


2 I HEREBY CERTIFY that I have made service of the foregoing Defendant's
3 Motion To Dismiss Plaintiff's Complaint on plaintiff herein by depositing in the
4 United States Post Office at Portland, Oregon, on February 9, 1970, a certified
5 true, exact, and full copy thereof, enclosed in an envelope with postage thereon
6 prepaid, addressed to each of the following:

7 William C. Grant, Esq.
8 202 Mohawk Building
Portland, Oregon 97204,

9 and

10 Jerome Daly, Esq.
11 28 East Minnesota Street
Savage, Minnesota 55378,

12 attorneys of record for plaintiff.

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14 

15 JACK G. COLLINS
16 First Assistant United States Attorney
17 Of Attorneys for Defendant
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I certify this document to be a true copy of the original on file, herein

Paul G. Collins
Assistant United States Attorney
of Attorneys for Defendant

SIDNEY I. LEZAK
United States Attorney
District of Oregon
JACK G. COLLINS
First Assistant U. S. Attorney
506 U. S. Courthouse, Box 71
Portland, Oregon 97207
226-3361, Ext. 1531
Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

ERVIN HARING,

Plaintiff,

v.

FEDERAL RESERVE BANK OF
SAN FRANCISCO, CALIFORNIA,
PORTLAND, OREGON BRANCH,

Defendant.

CIVIL NO. 69-735

MEMORANDUM IN SUPPORT OF
DEFENDANT'S MOTION TO DISMISS
PLAINTIFF'S COMPLAINT

STATEMENT OF THE CASE

This is an action for damages brought by Ervin Haring against the Federal Reserve Bank of San Francisco. Plaintiff claims to be the owner of a \$100 Federal Reserve Bank note which contains the statement, "This Note is legal tender for all debts public and private and is Redeemable in Lawful Money at the United States Treasury, or at any Federal Reserve Bank." Plaintiff presented the note for redemption at the Portland Branch of the Federal Reserve Bank of San Francisco and demanded gold and silver coin. The Bank stated that it was not able to redeem the note in gold or silver coin and offered other coin and currency of the United States which plaintiff refused. Plaintiff then brought this action, alleging wilful fraud on the part of the defendant and seeking \$200,100 in damages.

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I. This is an unconsented suit against the United States specifically prohibited by statute.

"Any consent which the United States may have given to the assertion against it of any right, privilege, or power whether by way of suit * * * in its own name or in the name of any of its * * * agencies * * * or instrumentalities in any proceeding of any nature whatsoever * * * (2) upon any coin or currency of the United States * * * is withdrawn * * *."

PAGE 2 - MEMORANDUM IN SUPPORT OF DEFENDANT'S
MOTION TO DISMISS PLAINTIFF'S COMPLAINT

1 Reserve Bank of Minnesota v. Register of Deeds, 384 N.W. 667, 668 (Mich. 1939);
2 Federal Reserve Bank of Richmond v. Kalin, 77 F.2d 50, 51 (C.A. 4, 1935)) within
3 the meaning of this statute, particularly where they are redeeming United States
4 currency on its behalf. And plaintiff states in his Complaint that his action
5 requesting \$200,100 in damages is based on such currency of the United States.
6 This action is clearly prohibited by 31 U.S.C. § 773b. Accordingly, plaintiff's
7 Complaint and action should be dismissed by this Court as an unconsented suit
8 against the United States specifically prohibited by statute. Plaintiff has
9 failed to join and may not join an indispensable party, the United States.
10 F.R.Civ.P. 12(b)(7). This Court lacks jurisdiction over the person of the
11 United States. F.R.Civ.P. 12(b)(2). This Court lacks jurisdiction over the
12 subject matter of this action. F.R.Civ.P. 12(b)(1).

13
14 II. Plaintiff's Complaint fails to state a claim upon
15 which relief can be granted.

16 Plaintiff based his claim for damages on the contention that only "Gold
17 and Silver Coin is lawful money in the United States." This contention is
18 completely without merit and cannot serve as the basis for a cause of action.^{1/}

19 The term "lawful money" has never been expressly defined in Federal
20 legislation. However, it is generally defined as "money in circulation by
21 sanction of the laws of the United States" or "money not circulated in violation
22 of law." See, e.g., State v. Elliott, 202 Pac. 847, 849 (Kansas, 1921); O'Neil v.
23 McKewn, 1 S.C. 147, 148 (South Carolina, 1869); State v. Boonmer, 72 N.W. 424
(Iowa, 1897).

24 Thus "minor" and "clad" coins, which are specifically authorized by
25 Congress pursuant to its constitutional power to coin money (see 31 U.S.C. §§ 317,
26 391), are lawful money of the United States. Likewise, Federal Reserve notes
27

28
29 ^{1/} Furthermore, if plaintiff is suggesting that his Federal Reserve
30 Bank notes are redeemable in gold or silver, this suggestion is not well taken
31 either as to gold or to silver. See 31 U.S.C. § 408a; cf. 31 U.S.C. § 405a-3.

1 which are issued under the specific authorization of Congress (12 U.S.C. § 411)
2 and which constitute more than 99 percent of our paper currency are "lawful money"
3 within the meaning of the legend on plaintiff's alleged Federal Reserve note.

4 Plaintiff's conclusion that only "Gold and Silver Coin" is lawful money
5 is without legal merit and cannot serve as the basis of a claim for damages.

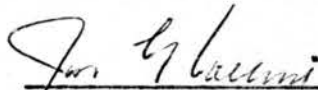
6 Moreover, the Supreme Court's decision in Perry v. United States,
7 294 U.S. 330 (1935) holding that the plaintiff had suffered no damage in a "gold
8 clause" case supports the proposition that irrespective of merits of the plain-
9 tiff's argument on the meaning of "lawful money" he has suffered no damage and
10 hence no actionable injury.

11 Defendant respectfully moves this Court for an order dismissing
12 plaintiff's Complaint and action for failure to state a claim upon which relief
13 can be based. F.R.Civ.P.12(b)(6).

14 Dated this 9th day of February, 1970.

15 Respectfully submitted,

16 SIDNEY I. LEZAK
17 United States Attorney
18 District of Oregon

19 

20 JACK G. COLLINS
21 First Assistant United States Attorney
22 Attorneys for Defendant
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CERTIFICATE OF SERVICE BY MAIL

I HEREBY CERTIFY that I have made service of the foregoing Memorandum in Support of Defendant's Motion To Dismiss Plaintiff's Complaint on plaintiff herein by depositing in the United States Post Office at Portland, Oregon, on February 9, 1970, a certified true, exact, and full copy thereof, enclosed in an envelope with postage thereon prepaid, addressed to each of the following:

William C. Grant, Esq.
202 Mohawk Building
Portland, Oregon 97204,

and

Jerome Daly, Esq.
28 East Minnesota Street
Savage, Minnesota 55378,

attorneys of record for plaintiff.



JACK G. COLLINS
First Assistant United States Attorney
Of Attorneys for Defendant



Robert M. Mattson
Attorney General
State of Minnesota
St. Paul

December 5, 1966

Mr. Frank R. Massey
Clerk, U. S. District Court for the
District of Minnesota - 3d Division
Federal Court House
St. Paul, Minnesota

Attention: Lawrence R. Tapper
Deputy Clerk

Re: Alfred M. Joyce v. Supreme Court et al.
Civ. Action No. 3-66-340 (USDC)

Dear Sir:

Enclosed is the corrected Notice of Motion to Dismiss
for the Supreme Court defendants in the above case.
Thank you for calling this matter to my attention.

Very truly yours

Linus J. Hammond
LINUS J. HAMMOND
Assistant Attorney General

dk

enc.

cc Jerome Daley, Esq.

cc Chief Justice, Supreme Court



A true copy in 1 sheets
Certified *September 1970*
FRANK A. MASSEY, CLERK,
BY: *John M. [Signature]*
Deputy

Robert M. Mattson

Attorney General

State of Minnesota

St. Paul

November 30, 1966

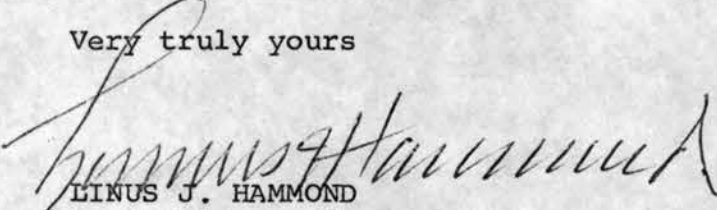
Mr. Frank R. Massey
Clerk of U. S. District Court for the
District of Minnesota - 3d Division
Federal Court House
St. Paul, Minnesota

Re: Alfred M. Joyce v. Supreme Court et al.
Civ. Action No. 3-66-340 (USDC)

Dear Sir:

We enclose herewith motion and notice of motion to
dismiss the above entitled action. You will note
it is set for hearing at the Special Term on
December 28, 1966 at 10:00 a.m. Will you please
place it on the calendar for that date.

Very truly yours


LINUS J. HAMMOND
Assistant Attorney General

LJH:dk

enc.

A true copy in 1 sheets
Certified February 10 1970
FRANK A. MASSEY, CLERK,
BY: Ellen M. Ellis
Deputy



Robert W. Mattson

Attorney General

State of Minnesota

St. Paul

November 30, 1966

Mr. Frank R. Massey
Clerk of U. S. District Court for the
District of Minnesota - 3d Division
Federal Court House
St. Paul, Minnesota

Re: Alfred M. Joyce v. Supreme Court et al.
Civ. Action No. 3-66-340 (USDC)

Dear Sir:

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December 28, 1966 at 10:00 a.m. Will you please
place it on the calendar for that date.

Very truly yours

Linus J. Hammond

LINUS J. HAMMOND

Assistant Attorney General

LJH:dk

enc.



A true copy in 1 SHOOT
Certified *February 14 1970*
FRANK A. MASSEY, CLERK,

BY: *Ever M. See*
Deputy

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL, MINNESOTA 55101

DOUGLAS M. HEAD
ATTORNEY GENERAL

July 3, 1967

Mr. Lawrence R. Tapper
Deputy Clerk
United States District Court
District of Minnesota
Saint Paul, Minnesota 55102

Re: Joyce Vs. Supreme Court
3-66 Civil 340

Dear Mr. Tapper:

Thank you for your letter of June 27 advising that
no motion is pending in the above captioned action.

Apparently after the marshall returned to Mr. Joyce
his papers for service they were served upon us by
mail and I had understood from Bill Eckley in
Minneapolis that he had a set of the motion papers.

In any event, we shall appear only if and when a
motion is properly set on for hearing and will
appreciate any advice your office may give us in
that regard.

Very truly yours,

William J. Hempel

WILLIAM J. HEMPEL
Chief Deputy
Attorney General

WJH/kaw

A true copy in 1 sheets
Certified February 16 1970
FRANK A. MASSEY, CLERK,
BY: *Ellen M. Allen*
Deputy



UNITED STATES GOVERNMENT

Memorandum

TO : Eckley, Mpls.

DATE: 6-9-67

FROM : Tapper, St. Paul

SUBJECT: Alfred M. Joyce, etc., vs. Supreme Court of the State of
Minnesota, et al. No. 3-66-340 Civil

File in above matter is herewith, as is a copy of the docket sheet.

The matter may be for hearing Tuesday. I talked to you about this
today.

A true copy of 1 sheets
Certified February 16 1970
FRANK A. MASSEY, CLERK.

BY:

Ellen M. Bell
Deputy

ROBERT W. MATTSON
Attorney General
State Capitol
St. Paul, Minnesota 55101

December 5, 1966

Jerome Daley, Esq.
28 E. Minnehaha Street
Savage, Minnesota

Re: Alfred M. Joyce v. Supreme Court et al.
Civ. Action No. 3-66-340 (USDC)

Dear Sir:

Through inadvertence the Notice of Motion to Dismiss the above captioned matter for the Supreme Court of Minnesota was incorrect. We therefore herewith serve upon you the corrected copy which has today been forwarded to the Clerk of the U. S. District Court, as evidence by copy enclosed of letter to the Clerk.

Very truly yours

LINUS J. HAMMOND
Assistant Attorney General

dk

enc.

A true copy in 1 sheet
Certified *Deputy* 19 *20*
FRANK A. MASSEY, CLERK.
BY: *Edwin M. Ellis*
Deputy

June 27, 1967

Mr. William J. Hempel
Chief Deputy Attorney General
State Capitol
St. Paul, Minn. 55101

Re: Joyce vs. Supreme Court 3-66 Civil 340

Dear Mr. Hempel:

This will acknowledge your letter of the 23rd.

There is no motion pending in the above-described action. It was closed in December of last year.

I do believe Mr. Joyce had forwarded some papers to the Marshal for service, but they were returned to him.

Sincerely,

Lawrence R. Tapper,
Deputy Clerk.

A true copy in 2 sheets
Certified February 10 1970
FRANK A. MASSEY, CLERK.
BY: Ellen M. Ellis
Deputy

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL, MINNESOTA 55101

DOUGLAS M. HEAD
ATTORNEY GENERAL

June 23, 1967

Mr. Frank Massey
Federal Court Clerk's Office
Federal Courts Building
Saint Paul, Minnesota

Dear Mr. Massey:

Re: Joyce v. Supreme Court
File No. 3-66-340 Civ.

We will look forward to being advised by your office
if and when the motion is set on for hearing, in the
above case.

Very truly yours,

William J. Hempel
WILLIAM J. HEMPEL
Chief Deputy
Attorney General

WJH/kaw



STATE OF MINNESOTA
COUNTY OF SCOTT SITUS

A.M. JOYCE, being duly sworn, deposes that at the Village of Savage, said county and state, he served the attached Notice of Motion and attached Supplemental Summons and Complaint by mail upon Jerome Daly 28 East Minnesota Street, Savage, Minnesota

Robert Mattson, Attorney General, State Capitol, St Paul 55 101.
That the U.S. Marshall refused to serve defendant Miles Lord.

A.M. Joyce
A.M. JOYCE

Subscribed and sworn to before me
this 10th day of June, 1967

James J. Daly
Notary public
Hoboken County, Minn
My Commission Expires
Jan 15, 1973



A true copy in 9 sheets
Certified *Frank A. Massey* 19 *67*
FRANK A. MASSEY, CLERK,

BY:

Ellen M. Ellis
Deputy

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MINNESOTA - THIRD DIVISION.
No. 3 66 340 Civ.

Alfred M. Joyce, as executor of
the Last Will and testament of
Helen A. Patterson, decedent.

PLAINTIFF

VS

NOTICE OF MOTION.

Suprem Court of the Stabe of
Minnesota, et al. and MILES LORD,
Defendants

To defendants above named and their attorneys:

TAKE NOTICE, that plaintiff will move the above-named court at a Special term thereof to be held in the United States Courthouse, in the City of Minneapolis, said state, to be held on the 12th day of June, 1967 at 10 A.M. or as soon thereafter as counsel can be heard, for its order allowing the attached Supplemental Complaint of plaintiff, as served and filed herein, to stand as plaintiff's supplemental complaint herein; and directing said defendant Lord to answer or otherwise plead thereto within 20 days of the service thereof upon him.

Said motion will be based upon all the files, records and proceedings herein.

Dated May 25, 1967

temporary address:

A.M. Joyce, on his own behalf.
221½ Vine Street at Burns,
Savage, Minnesota 55 378.

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MINNESOTA - THIRD DIVISION
Civil Action File No. 3-66-340

Alfred M. Joyce, as Executor of
the Last Will and Testament of
Helen A. Patterson, Decedent,

Plaintiff,

vs.

SUPPLEMENTAL SUMMONS

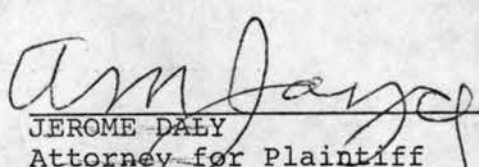
Supreme Court of the State of
Minnesota, Oscar R. Knutson,
Thomas Gallagher, Martin A.
Nelson, William P. Murphy, James
C. Otis, Walter F. Rogosheske,
Robert J. Sheran, The District
Court of the County of Dakota -
First Judicial District -
State of Minnesota, and The
State of Minnesota, and
MILES LORD,

Defendants.)

THE STATE OF MINNESOTA TO THE ABOVE NAMED DEFENDANTS!

You, and each of you, are hereby Summoned and required to
serve upon Plaintiff's Attorney an Answer to the Complaint which
is herewith served upon you, within 20 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.

Dated in Savage, Minnesota
May 24, 1967


JEROME DALY
Attorney for Plaintiff
28 East Minnesota Street
Savage, Minnesota

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MINNESOTA - THIRD DIVISION
Civil Action File No. 3-66-340

Alfred M. Joyce, as Executor of
the Last Will and Testament of
Helen A. Patterson, Decedent,

Plaintiff,

vs.

SUPPLEMENTAL COMPLAINT

Supreme Court of the State of
Minnesota, Oscar R. Knutson,
Thomas Gallagher, Martin A.
Nelson, William P. Murphy, James
C. Otis, Walter F. Rogosheske,
Robert J. Sheran, The District
Court of the County of Dakota -
First Judicial District -
State of Minnesota, and The
State of Minnesota, and
MILES LORD

Defendants.

PLAINTIFF FOR HIS SUPPLEMENTAL COMPLAINT HEREIN, ALLEGES:


I.

Re-alleges here all his original Complaint, in toto, including
all exhibits.

II.

Alleges that subsequently to the drafting, service and filing
of his original Complaint herein, Plaintiff served and filed herein
a motion for reference to a three-Judge Court, based upon
Constitutional jurisdictional issues patently involved.

III.

That thereafter Defendant, Miles Lord, sitting as a Judge of
the United States District Court, made, executed and filed herein
an order, a true and correct copy whereof is hereto attached,
marked Exhibit  and is hereby made a part hereof to all intents
and purposes as though here fully set forth.

IV.

That said Defendant Lord, in making said Order, temporarily

vitiating the Constitution of the United States for all purposes here, arrogated to himself the authority of a three-judge Court, to determine its jurisdiction; and in attempting to derogate and render ineffectual the God-given, Christ restored Constitution of the United States, characterized his thought and action as that of a megalomaniac.

V.

That Defendant, Miles Lord, in making said Order, has joined with the Defendants in their common plan and design to overthrow the Constitution of the United States and its government, became one of their number; and committed the final overt act which makes their conspiracy actionable and indictable, as by the LAW OF THE LAND in such case made and provided.

WHEREFORE, Plaintiff, as named Executor of the Last Will and Testament of Helen A. Patterson, demands relief and Judgment as follows:

1. Pursuant to Sections 2281 through 2284 28 USC, Plaintiff hereby makes application that the above entitled action be heard and determined by a District Court of Three Judges under Section 2284, United States Code.

2. For Declaratory Judgment that:

A. The Enabling Act set out in Exhibit A to the Complaint be declared unconstitutional.

B. The Order of the Supreme Court of Minnesota dated June 25, 1951 and all Orders amendatory thereof, is declared Unconstitutional.

3. That the Supreme Court of Minnesota and the Justices thereof be permanently enjoined from enacting rules of substantive law, whether Procedural or otherwise, for the District Courts of Minnesota, pursuant to the Enabling Act referred to herein or otherwise.

4. That the District Court of Dakota County be permanently enjoined from giving any force or effect to said Rules.

6. For damages, to be assessed by a Constitutional jury, general, special, punitive and _____ in the sum of \$500,000.00 together with his costs and disbursements herein.

~~Jerome Daly~~
~~Attorney for Plaintiff~~
 28 East Minnesota Street
 Savage, Minnesota

STATE OF MINNESOTA)) SS
COUNTY OF SCOTT)

Alfred M. Joyce
ALFRED M. JOYCE

NOTARY PUBLIC
Dakota County
My commission expires _____.

EXHIBIT C.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

Alfred M. Joyce, as executor of
the Last Will and Testament of
Helen A. Patterson, Decedent
PLAINTIFF

VS

Supreme court of the State of Minnesota, et al
DEFENDANTS

ORDER
NO. 3-66-340 Civ.

Jerome Daly, attorney for plaintiff
Robert M. Mattson, Attorney General etc.

Plaintiff made application for a hearing of the above entitled action by a three-judge court. Defendants----- moved for a dismissal of the above entitled action.

These matters came on for hearing in November, 1966 and December 28, 1966.

On all the arguments, files and records

IT IS HEREBY ORDERED,

1. That plaintiff's application for hearing by a three judge court is denied on the ground that the complaint fails to state raise substantial constitutional issues.

2. That the above entitled action is dismissed on the ground of failure to state a claim upon which relief may be granted. An alternative ground for dismissal of all defendants except individual Justices of the Minnesota Supreme court is lack of jurisdiction over their person.

Dated Dec 29, 1966.

United States District Judge,

STATE OF MINNESOTA
SITUS
COUNTY OF SCOTT

A.M. JOYCE, being sworn, says that at the
Village of Savage, said county and state, he served the attached
Notice of Motion by mail upon :

Jerome Daly 28 East Minnesota St., Savage, Minnesota

Neil P. Convery Asst U.S. Atty Minneapolis, Minnesota

James R. Bennett Appleton, Minnesota

Donald Maland Montevideo, Minn.

C. Marc Whitehead. Minneapolis Minnesota

Kenneth Kivley Appleton, Minnesota.

A.M. Joyce
Plaintiff pro se

Subscribed and sworn to before me

this 10th day of June, 1967

Jerome Daly
Notary public

Roberta County, Minn

My Commission Ex 1-15-73

To be attached to Notice of Motion returnable June 12, 1967 re

Joyce vs Commodity Credit etal 4th Division, District of Minnesota.

AMERICAN CITIZENSHIP.

Every natural (as distinguished from naturalized) citizen of the United States of America is born within the jurisdiction and under the protection of the Constitution of the United States; is a high Contracting Party to that Divine Document; is born into the priesthood of Jesus Christ; and together with all other natural citizens constitutes the church of Jesus Christ. His status is absolute, and is subject to no impairment or conditioning by any other mortal. He is bound by no heritage; he has his Constitution and his Birthright.

The American pledge of allegiance should not be to a blood-soaked rag; but to the Constitution:

I PLEDGE ALLEGIANCE TO THE CONSTITUTION OF THE UNITED STATES: AND TO THE REPUBLIC BASED THEREON: ONE INDIVISIBLE NATION UNDER THE LAW OF THE LAND; WITH LIBERTY AND JUSTICE FOR ALL.

IT IS GOD WHO IS THE UNDEFINED AND CONTROVERSIAL FIGURE.

June 10, 1967

The Old Ramrod of the Lazy J.

Our judiciary seem to have acquired the impression that their function is to delay, impede and obstruct the administration of law and justice.

When a lone judge arrogates the power and authority to pass upon the jurisdiction of a 3-judge court, he nullifies the provision for a 3-judge court.

When any "judge" arrogates to himself the power and authority to determine issues of fact; he nullifies the Law of the Land as established by the Constitution of the United States, the Ordinance of 1787, and the Constitution of the State of Minnesota.

X1 SUPPLEMENTAL PLEADINGS. 41 Am. Jur. Sec 261, page 475.

261 Generally. - While primarily the rights of the parties to an action are to be determined by facts existing at the time of the commencement of the action, it often happens that thereafter, and before trial, matters arise which affect those rights. It is the office of the supplemental pleading to bring to the notice of the court new matters occurring since the filing of the original complaint or petition, the answer thereto, or the reply to the answer, which may strengthen or re-inforce the cause of action or defense stated in the pleadings. AND IT IS A RULE GENERALLY THAT A PARTY CANNOT PUT IN ISSUE RIGHTS ACQUIRED PENDENTE LITE UNLESS HE FILES A SUPPLEMENTAL PLEADING. In some jurisdictions the statutes permit a party also to set up facts in supplemental pleadings which were unknown to him at the time his original pleading was filed. Other statutes permit a party to set up by supplemental complaint, answer, or reply facts material to the cause of action, regardless of whether such facts occurred after the former pleading was filed, or whether he knew the facts at the time he filed the former pleading. ---.

Defendat's brief on Amended Complaint is inapplicable and without effect.

This memo. is submitted re

Joyce vs Supreme court District of Minnesota, Third Division 3 66 340 Civ.

Joyce vs Commodity Credit et al ditto 4th ditto 4 66 225 Civ.

June 12, 1967.

present address:

A.M. Joyce, plaintiff, prose
221½ Vine St. corner Burns
Savage, Minn 55 378

UNITED STATES DISTRICT COURT
for the
DISTRICT OF MINNESOTA
THIRD DIVISION

Civ. Action No. 3-66-340

ALFRED M. JOYCE, as Executor of the
Last Will and Testament of
HELEN A. PATTERSON, Decedent,

Plaintiff,

vs.

Supreme Court of the State of Minnesota,
Oscar R. Knutson, Thomas Gallagher,
Martin A. Nelson, William P. Murphy,
James C. Otis, Walter F. Rogosheske,
Robert J. Sheran,
The District Court of the County of
Dakota - First Judicial District -
State of Minnesota, and
The State of Minnesota,

Defendants.

BRIEF OF DEFENDANTS
STATE OF MINNESOTA
AND THE STATE OF
MINNESOTA TO SUPPORT
MOTION TO DISMISS

Now comes the defendants State of Minnesota and The State of
Minnesota and respectfully submits its brief and contentions to
sustain its Motion to Dismiss the complaint against it in the above
case.

I.

The Complaint:

The complaint purports to allege a claim under the Civil Rights
Act (Par. III) for a claimed wrong to plaintiff, in that summary judg-
ment was ordered apparently by the District Court of Dakota County,
Minnesota (Par.VIII) against Helen A. Patterson during her lifetime;
that Helen A. Patterson, during her lifetime and in the years 1961
to 1964, made numerous applications to the Supreme Court of the State
of Minnesota, to no avail.

Plaintiff's prayer for relief is for a "Declaratory Judgment
that:

- (a) The Enabling Act (Laws 1947, c. 498; M.S. 480.051 et seq.)
be declared unconstitutional.
- (b) The Order of the Supreme Court of Minnesota of June 25,
1951 be declared unconstitutional.
- (c) That the Minnesota Supreme Court be enjoined from
enacting rules of substantive law.

A true copy in 9 sheets
Certified February 16, 1970
FRANK A. MASSEY, CLERK,

BY: *[Signature]*
Deputy

The Motion:

These moving defendants have moved to dismiss the complaint under Rule 12b, Rules of Civil Procedure, for the reason that this Honorable Court has not jurisdiction (1) of the person, or (2) of the subject matter of the action, and (3) the complaint fails to state a claim upon which relief can be granted.

II.

(1)
(a) This Honorable Court has not jurisdiction of the person, or (2) of the subject matter of the action.

The United States Constitution, Amendment XI reads as follows:

"The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state."

In Smith v. Reeves, 178 U.S. 436, 44 L.Ed. 1140, the United States Supreme Court stated:

"A suit brought against a State by one of its citizens is excluded from the judicial power of the United States, even when it is one arising under the Constitution and laws of the United States, and the same rule applies to suits of a like character brought by Federal corporations against a State without its consent."

In Chandler v. Dix, 194 U.S. 590, 48 L.Ed. 1129, 20 S.Ct. 919, the United States Supreme Court stated:

"An action cannot be maintained in the Federal courts to set aside tax sales on the ground that the sales are void, where the property has been bought, and is claimed, by the State without making the State a party, and where there is no statutory provision permitting such an action it cannot be maintained against the State under the Eleventh Amendment."

In Murray v. Wilson Distilling Co., 213 U.S. 151, 53 L.Ed. 742, the court stated:

"The consent of a State to be sued in its own courts by a creditor does not give that creditor the right to sue in a Federal court."

In Fitts v. McGhee, 172 U.S. 516, 524, 43 L.Ed. 535, 19 S.Ct. 269, cited with approval in Gunter v. Atlantic Coast Line R.R. Co., 200 U.S. 273, 50 L.Ed. 477, 26 S.Ct. 252, it is stated:

"* * * a suit against a State by one of its own citizens, the State not having consented to be sued, was unknown

to and forbidden by the law, as much so as suits against a State by citizens of another State of the Union, or by citizens or subjects of foreign States."

In Parden v. Terminal Ry. of Alabama, 377 U.S. 184, 12 L.Ed.(2d) 233, 84 S.Ct. 1207, the United States Supreme Court stated:

"An unconsenting state is immune from federal court suits brought by its own citizens as well as by citizens of another state."

The complaint fails to allege a state legislative act that gives consent to sue the State of Minnesota in Federal court or in any state court for the relief he seeks.

In Berman v. Minnesota State Agricultural Society, 93 Minn. 125, 100 N.W. 732, the Minnesota Supreme Court stated:

"Since the adoption of the eleventh amendment to the constitution it has been uniformly held that a suit by an individual cannot be maintained against a sovereign state without its consent."

In Simmons v. South Carolina State Highway Department, 195 F.Supp. 516, it is stated:

"A State cannot, without its consent, be sued in a District Court of the United States by one of its own citizens upon the claim that the case is one that arises under the Constitution and laws of the United States. Hans v. State of Louisiana, 134 U.S. 1, 10 S.Ct. 504; Principality of Monaco v. State of Mississippi, 292 U.S. 313, 54 S.Ct. 745; Duhne v. State of New Jersey, 251 U.S. 311, 40 S.Ct. 154; Missouri v. Fiske, 290 U.S. 18.

"A suit against the State Highway Department is a suit against the State. [Cases cited.]"

"The State of South Carolina has not consented to be sued in this case."

(b) The Civil Rights Act, 42 U.S.C. 1983, reads as follows:

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. R.S. § 1979."

In the case of Sires v. Cole, 320 F. (2d) 877, 879 (USCA 9), the court stated:

"Congress did not undertake to bring municipal corporations within the ambit of 42 U.S.C. § 1983. Monroe v. Pape, 365 U.S. 167, 187, 81 S.Ct. 473, (in which the statute is designated as R.S. § 1979). The considerations which have led to this conclusion, based largely upon an examination of the legislative history, indicate that this is likewise true of a state or county. See the legislative history reviewed in Monroe v. Pape, pages 188-191 of 365 U.S. pp. 484-486 of 81 S.Ct. It follows that the action was properly dismissed as to defendant Kittitas County."

It would therefore appear that the Civil Rights Act does not empower the District Court to entertain a claim against a state.

(c) The Declaratory Judgment Act, 28 U.S.C.A. 2201, does not confer jurisdiction where none otherwise exists. In the case of Longview Tugboat Co. v. George S. Jameson, 218 F.(2d) 547 (USCA 9), the court stated:

"It will be noted that the prayer of the complaint, quoted above, is for declaratory relief and for 'an appropriate order' requiring the Collector of Customs to issue a license or other appropriate document. An order of that character would be in substance a writ of mandamus. District Courts of the United States have no original jurisdiction to grant that kind of relief. Petrowski v. Nutt, 9 Cir., 161 F.2d 938. The fact that appellant prayed for a declaration of rights under the Declaratory Judgment Act, Title 28, §§ 2201, 2202, does not serve to furnish a ground of federal jurisdiction. As we said in Southern Pac. Co. v. McAdoo, 9 Cir., 82 F.2d 121, 'The Declaratory Judgment Act * * * is limited in its operation to those cases which would be within the jurisdiction of the federal courts if affirmative relief were being sought. * * * The mere fact that a declaratory judgment is sought is not, of itself, a ground of federal jurisdiction.'"

In the case of Love v. U. S., 108 F.(2d) 43 (USCA 8), a suit under the Federal Declaratory Judgment Act, then 28 U.S.C. 400 (now 28 USCA 2201), for a declaration as to employment rights, plaintiff contended the Declaratory Judgment Act was broad enough to declare rights in his favor. The court stated at page 50:

"*** We have given the argument consideration but are persuaded that the Act does not extend the consent of the United States to be sued to suits in which the causes of action presented are not of such a nature as to be justiciable in the courts. The Act makes no mention of suits against the United States, nor does it give any indication of intention to broaden judicial

supervision over the executive or administrative departments of the government. As the Supreme Court said in United States v. West Virginia, 295 U.S. 463, 55 S.Ct. 789, 793, 79 L.Ed. 1546; "It does not purport to alter the character of the controversies which are the subject of the judicial power under the Constitution."

"In suits against the United States the judgment of the court must necessarily be largely declaratory in its nature because the usual award of process or execution is inappropriate. But the Act does not create new substantive rights. [Cases cited.] It is essentially a procedural statute. [Cases cited.] The controversy must be one which is appropriate for judicial determination." [Cases cited.] (Emphasis ours.)

To same effect, Anderson v. U.S., 229 F. (2d) 675 (USCA 5); Hunter v. U.S., 183 F.(2d) 446 (USCA 4); Gibson v. U.S., 161 F.(2d) 973 (USCA 6); DiBenedetto v. Morgenthau, 148 F.(2d) 223 (USCA DC); Aetna Casualty Co. v. Quarles, 92 F.(2d) 321 (USCA 4); Dillner Transfer Co. v. McAndrew, 226 F.Supp. 860 (DC Pa.); U.S. v. Ein Chemical Corp., 161 F.Supp. 238 (DC NY); Midwest Coast Transport Co. v. U.S., 125 F.Supp. 557 (USDC SD); Isner v. I.C.C., 90 F.Supp. 361 (DC Mich.); Waterman v. Somervell, 34 F.Supp. 695 (DC NY); Brisbois v. Hague, 85 F.Supp. 13 (DC Mass.).

At 81 C.J.S., "States", page 1304, §214, it is stated:

"Actions for declaratory judgments. Generally, an action for a declaratory judgment cannot be maintained against the state without its consent (citing Arnold v. State, 154 P.2d 257, 48 N.M. 596; Lucas v. Banfield, 177 P.2d 244 (Ore.); Yerger v. Commonwealth, 59 Montg. Co. 149 (Pa.)), the state's immunity from suit being held unaffected by declaratory judgment statutes (citing Hoyt v. Board of Civil Service, 132 P.2d 804 (Cal.); Davis v. State, 37 A.2d 880 (Md.); Abelson's Inc. v. New Jersey, 75 A.2d 867 (N.J.); American Fed. of Labor v. Mann, 188 S.W.2d 276 (Texas))."

III.

- (a) The complaint fails to state a claim upon which relief can be granted against these defendants.

(1) The complaint is void of facts but we deduce that, at some time in the past, in a state court proceeding, the Rules of Civil Procedure of the State of Minnesota were used or relied upon by an adversary litigant to plaintiff to obtain favorable results. It would appear safe to say that none of these defendants were the

adversaries so favored, nor are any of the defendants in this lawsuit adversaries in litigation now pending upon which the validity of the Civil Rules are or were involved.

Even though a Federal District Court may feel inclined to assume jurisdiction under the claim alleged, the complaint must state a claim upon which relief can be granted. Stanturf v. Sipes, 335 F.(2d) 224 (USCA 8).

(1) The complaint fails to show "diversity" of citizenship as Title 28 U.S.C. 1332 provides.

(2) The complaint fails to show a substantial federal question involved as Title 28, § 1331 provides.

(3) The complaint fails to show that the question of the constitutionality of the Enabling Act that preceded the adoption of the Rules of Civil Procedure was ever submitted to the Minnesota courts for determination. Brown v. Doby, 232 F.(2d) 504 (USCA NC, cert.den.); Detroit Edison Co. v. School District, 247 F.Supp. 296 (DC Mich.). In Alabama State Federation of Labor v. McAdory, 325 U.S. 450, 65 S.Ct. 1384, the United States Supreme Court stated:

"The federal courts will generally abstain from holding a state statute unconstitutional until the state courts familiar with the local law have had an opportunity to construe it."

To same effect see C.I.O. v. McAdory, 325 U. S. 472.

(4) In order that there be relief under the Declaratory Judgment Act, the claim must be based on a "justiciable controversy."

In Ala. State Fed. of Labor v. McAdory, supra, the action was one for a declaratory judgment adjudicating the constitutional validity of a state statute. In defining "justiciable controversy" the court stated on pages 461-462:

"The requirements for a justiciable case or controversy are no less strict in a declaratory judgment proceeding than in any other type of suit. [Cases cited.] This Court is without power to give advisory opinions. [Cases cited.] It has long been its considered practice not to decide abstract, hypothetical or contingent questions, [Cases cited.], or to decide any constitutional question in advance of the necessity for its decision, [Cases cited.], or to formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied, [Cases cited.], or to decide

any constitutional question except with reference to the particular facts to which it is to be applied, [Cases cited.]

"A law which is constitutional as applied in one manner may, it is true, violate the Constitution when applied in another. [Cases cited.] But 'Since all contingencies of attempted enforcement cannot be envisioned in advance of those applications' this Court has felt bound to delay passing on 'the constitutionality of all the separate phases of a comprehensive statute until faced with cases involving particular provisions as specifically applied to persons who claim to be injured.' [Case cited.] All these considerations forbid our deciding here the constitutionality of a state statute of doubtful construction in advance of its application and construction by the state courts and without reference to some precise set of facts to which it is to be applied. The declaratory judgment procedure may be resorted to only in the sound discretion of the Court and where the interests of justice will be advanced and an adequate and effective judgment may be rendered. [Cases cited.]" (Emphasis ours.)

In Seiz v. Citizens Pure Ice Co., 207 Minn. 277, 290 N.W. 802, the plaintiff sought a determination as to the constitutionality of a provision of the Minnesota Unemployment Compensation Act. Plaintiff prevailed in the lower court. The Minnesota Supreme Court reversed, saying:

"Proceedings for a declaratory judgment must be based on an actual controversy. The controversy must be justiciable in the sense that it involves definite and concrete assertions of right and the contest thereof touching the legal relations of parties having adverse interests in the matter with respect to which the declaration is sought, and must admit of specific relief by a decree or judgment of a specific character as distinguished from an opinion advising what the law would be upon a hypothetical state of facts. Mere differences of opinion with respect to the rights of parties do not constitute such a controversy. This court of its own motion will reverse for want of jurisdiction of the subject matter where it appears there is no real controversy, on the grounds that there is no proper case for a declaratory judgment and the judicial function does not comprehend the giving of advisory opinions. County Board of Education v. Borgen, 192 Minn. 512, 257 N.W. 92."

In Ala. State Fed. of Labor v. McAdory, supra, the United States Supreme Court stated:

"This Court is without power to give advisory opinions [Cases cited.] and it has long been its considered practice not to decide abstract, hypothetical or contingent questions."

In Stanturf v. Sipes, 335 F.(2d) 224 (USCA 8), supra, it is stated:

"Mere assertion of violation of constitutional rights is usually not sufficient, and jurisdiction, as determined from the allegations in the complaint, is wanting where the claim pleaded is plainly insubstantial."

(5) The complaint must clearly show facts from which it can be determined that the state statute is in conflict with national legislation and that the plaintiffs are adversely affected thereby.

At most, the complaint alleges a lack of affinity for the Minnesota Rules of Civil Procedure, but the complaint alleges no adversary suit drawing in question their validity as applied to specific facts.

In the Ala. Fed. of Labor v. McAdory case, supra, the United States Supreme Court stated on page 467:

"We can be asked to condemn a state statute as in conflict with national legislation only if the conflict is clearly shown, Allen-Bradley Local v. Board, supra, 749; Townsend v. Yeomans, 301 U.S. 441, 454, and cases cited, and only by those who show that they are adversely affected by the alleged conflict with national power. Each of the contentions which petitioners make with respect to the conflict of §§ 7 and 16 with the National Labor Relations Act could readily be adjudicated and disposed of in an adversary suit drawing in question their validity as applied to specific states of fact, in which respondents could both challenge the facts and the applicability to them of the statute. In the present suit we find that both the uncertainty as to the construction of the sections and the uncertainty as to the facts to which they are to be applied preclude the adjudication which the petitioners seek."


Minnesota Rules of Civil Procedure are patterned almost word for word after the Federal Rules of Civil Procedure. It is elementary that the power to prescribe practice, pleadings and modes of proceedings in the courts of the State of Minnesota is lodged in the Legislature, Jeppesen v. Swanson, 243 Minn. 547, 68 N.W.(2d) 649, as it is in the Federal Congress, Stanturf v. Sipes, supra, and it would seem that one questioning the validity of the Minnesota Rules would have to present strong and cogent reasons why they should be invalidated. And certainly no reasons are set forth in this complaint.

C O N C L U S I O N

For the reasons here stated we respectfully pray for an
order dismissing the complaint against these moving defendants.

Respectfully submitted,

ROBERT W. MATTSON
Attorney General


LINUS J. HAMMOND
Assistant Attorney General

Attorneys for above defendants
102 State Capitol
Saint Paul, Minnesota 55101

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

Alfred M. Joyce, as Executor of the Last Will
and Testament of Helen A. Patterson, Decedent,
Plaintiff,

v.

Supreme Court of the State of Minnesota, Oscar
R. Knutson, Thomas Gallagher, Martin A. Nelson,
William P. Murphy, James C. Otis, Walter E.
Rogosheske, Robert J. Sheran, The District Court of
Dakota - First Judicial District - State of
Minnesota, and The State of Minnesota,
Defendants,

No. 3-66-340 Civil

FILE WRAPPER CONTENTS

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Minutes of Proceedings - 11-28-66-	(micro) 2.
Summons	3.
Notice of Motion and Motion to Dismiss - State of Minn.	4.
Notice of Motion and Motion to Dismiss - Supreme Court of the State of Minn.	5.
Notice of Motion to Dismiss - State of Minn. et al	6.
Minutes of Proceedings - 12-28-66 - hearing on motions	6a.
Affidavit of Default	7.
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Notice to counsel	8.
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February 16 1970
Certified
FRANK A. MASSEY, CLERK
BY: Ellen M. Ellis
Deputy

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
3d DIVISION

No. 3-66-340 Civil
~~Criminal~~

Alfred M. Joyce, etc.,

Plaintiff

vs

Supreme Court of the State of
Minnesota, Oscar R. Knutson,
et al.,

Defendant,

You are hereby notified that in the above entitled cause
on the 29th day of December, 1966, we filed Judge Miles
W. Lord's Order denying plaintiff's application for hearing by a three-judge court
and dismissing the action.

FRANK A. MASSEY, Clerk

By _____
Deputy Clerk
Lawrence R. Tapper

To: Mr. Jerome Daly
28 E. Minnesota Street
Savage, Minnesota

Attorney for plaintiff

Mr. Robert W. Mattson
Attorney General, State of Minnesota
State Capitol
St. Paul, Minn. 55101

Attorney for defendants

Attorney for _____

A true copy in 1 sheet
Certified February 16 1970
FRANK A. MASSEY, Clerk
BY: E. Allen Deputy

Filed Dec. 29 1966
Frank A. Massey, Clerk
By Lawrence R. Tapper
Deputy

Attorney for _____

Note: If an appeal is contemplated, the Rules of the United States Court of Appeals and "Suggestions to Attorneys Concerning Appellate Rules & Practice" can be procured from the Clerk, United States Court of Appeals, U. S. Court House and Customs House, St. Louis, Missouri.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

Alfred M. Joyce, as Executor of
the Last Will and Testament of)
Helen A. Patterson, Decedent,)

Plaintiff,)

vs.)

Supreme Court of the State of
Minnesota, et al.,)

Defendants.)

ORDER

No. 3-66-340 Civ.

Jerome Daly, 28 East Minnesota Street, Savage,
Minnesota, attorney for plaintiff; Robert W.
Mattson, Attorney General, by Linus Hammond,
102 State Capitol, St. Paul, Minnesota, attorneys
for Supreme Court and State of Minnesota.

Plaintiff made application for a hearing of the above en-
titled action by a three-judge court. Defendants, the State of
Minnesota, the Supreme Court of Minnesota, and the individual
Justices of the Supreme Court of the State of Minnesota, moved
for dismissal of the above entitled action.

These matters came on for hearing on November 28, 1966,
and December 28, 1966.

On all the arguments, files and records

IT IS HEREBY ORDERED:

1. That plaintiff's application for hearing by a three-
judge court is denied on the ground that the complaint fails to
raise substantial constitutional issues;

2. That the above entitled action is dismissed on the
ground of failure to state a claim upon which relief may be

A
Certified
FRANK A. MASSEY, CLERK,

BY: *Edith M. [Signature]*
Deputy

Filed DEC 29 1966 19
Frank A. Massey, Clerk

By *Lawrence R. [Signature]*
Deputy

granted. An alternative ground for dismissal of all defendants except the individual Justices of the Minnesota Supreme Court is lack of jurisdiction over their person.

Dated: Dec 29th 1964

W. W. Lord
United States District Judge

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

3-66-340

Alfred M. Joyce, etc.,

Plaintiff,

vs.

AFFIDAVIT OF DEFAULT

Supreme Court of Minnesota, et al,
The District Court of the County
of Dakota,

Defendants.

STATE OF MINNESOTA
COUNTY OF SCOTT SS

Alfred M. Joyce, having been first sworn states that
Summons and Complaint was served upon Eugene Casserly Clerk of
District Court, at Hastings, Minnesota in the above entitled
action on November 23, 1966.

Dakota County District Court
That said Defendant/is in default, having filed no answer
or responsive pleading herein, through and including December 28, 1966.

Alfred M. Joyce
Alfred M. Joyce

Subscribed and sworn to before me
this 28th day of December, 1966

Jerome Daly
Notary Public, Dakota County, Minnesota
My Commission Expires ~~December~~ January 15, 1966

A true copy in 1 sheets
Certified February 19 70
FRANK A. MASSEY, CLERK,

BY:

Eller M. Ellis
Deputy

Filed DEC 28 1966 19
Frank A. Massey, Clerk

By *Lawrence R. Lyster*
Deputy

66

UNITED STATES DISTRICT COURT, DISTRICT OF MINNESOTA, THIRD DIVISIONDATE Dec. 28, 1966 JUDGE Lord REPORTER BreviuNo. 3-66-340 CivilAlfred M. Joyce, as Ex. of the Last

Appearances:

Will and Testament of Helen A.Jerome Daly ✓Patterson, Decedent

Plaintiff

Plaintiff

vs.

Supreme Court of the State ofRobert W. MattsonMinnesota, Oscar R. Knutson, ThomasLinus J. Hammond ✓

Defendant

Gallagher, Martin A. Nelson, et al

Defendant

Application for 3 judge court - Taken under advisementMotion of deft. State of Minnesota for dismissal, Taken under advisementMotion by defts. Supreme Court of State of Minn., Oscar R. Knutson, ThomasGallagher, Martin A. Nelson, William P. Murphy, James C. Otis, Walter F. Rogeshaskeand Robert J. Sheran to dismiss. Taken under advisement.

(Signed)

Frank A. Massey

MICROFILMED

A true copy in 1 sheets
Certified February 16, 1970
FRANK A. MASSEY, CLERK,

BY:

Eileen M. Elin
Deputy

UNITED STATES DISTRICT COURT
for the
DISTRICT OF MINNESOTA
THIRD DIVISION

Civ. Action No. 3 - 66 - 340

ALFRED M. JOYCE, as Executor of the
Last Will and Testament of
HELEN A. PATTERSON, Decedent,
Plaintiff,
vs.

Supreme Court of the State of Minnesota,
Oscar R. Knutson, Thomas Gallagher,
Martin A. Nelson, William P. Murphy,
James C. Otis, Walter F. Rogosheske,
Robert J. Sheran,
The District Court of the County of
Dakota - First Judicial District -
State of Minnesota, and
The State of Minnesota,

NOTICE OF MOTION
TO DISMISS
(Rule 12b)

Defendants.

TO: Plaintiff above named, and
Jerome Daley, Esq., his attorney,
28 E. Minnehaha Street
Savage, Minnesota

PLEASE TAKE NOTICE that, at a Special Term of the above named
Court, to be held on Wednesday, December 28, 1966, at 10:00 a.m. on
said date, or as soon thereafter as counsel can be heard, at the Federal
Court House in the City of Saint Paul, Minnesota, the defendants Supreme
Court of the State of Minnesota, Oscar R. Knutson, Thomas Gallagher,
Martin A. Nelson, William P. Murphy, James C. Otis, Walter F. Rogosheske,
and Robert J. Sheran will move this Honorable Court to dismiss the above
entitled action on the grounds and for the reasons stated in the attached
motion.

ROBERT W. MATTSON
Attorney General

Linus J. Hammond
LINUS J. HAMMOND
Assistant Attorney General

Attorneys for above defendants
102 State Capitol
Saint Paul, Minnesota 55101

A true copy in 1 sheets
Certified *February 16 1970*
FRANK A. MASSEY, CLERK,
BY: *Eileen M. B...* Deputy

DEC 6 1966 19
Filed
Frank A. Massey, Clerk
By *James B. Stoddard* Deputy

STATE OF MINNESOTA)
(ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE BY MAIL

Alfred M. Joyce v. Supreme Court et al.
Re: Civ. Action No. 3-66-340 (USDC)

DOLPHINE V. KLEIN being duly sworn on oath deposes and says that she is a secretary in the office of the Attorney General for the State of Minnesota; that, as such secretary on the date of the making of this affidavit, she deposited in the United States Mail at the State Capitol, in the City of Saint Paul, State of Minnesota, County of Ramsey, a copy of the within NOTICE and MOTION TO DISMISS in the above captioned case, properly enveloped and with postage prepaid, and addressed as follows:

Jerome Daley, Esq.
Attorney at Law
28 E. Minnehaha Street
Savage, Minnesota

and that same constitutes service of said NOTICE and MOTION TO DISMISS upon plaintiff's attorney in the above captioned case.

Dolphine V. Klein

Subscribed and sworn to before me
this 5th day of December, 1966.

Ivalee Mickelberry
IVALEE MICKELBERRY

Notary Public, Dakota County, Minn.
My Commission expires August 4, 1973

A true copy in 1 sheets
certified: February 16, 1970
FRANK A. MASSEY, CLERK,

BY: *Ellen M. Ellis*
Deputy

UNITED STATES DISTRICT COURT
for the
DISTRICT OF MINNESOTA
THIRD DIVISION

Civ. Action No. 3 - 66 - 340

ALFRED M. JOYCE, as Executor of the
Last Will and Testament of
HELEN A. PATTERSON, Decedent,

Plaintiff,

vs.

NOTICE OF MOTION
TO DISMISS
(Rule 12b)

Supreme Court of the State of Minnesota,
Oscar R. Knutson, Thomas Gallagher,
Martin A. Nelson, William P. Murphy,
James C. Otis, Walter F. Rogosheske, and
Robert J. Sheran,
The District Court of the County of
Dakota - First Judicial District -
State of Minnesota, and
The State of Minnesota,

Defendants.

TO: Plaintiff above named, and

Jerome Daley, Esq., his attorney,
28 E. Minnehaha Street
Savage, Minnesota

PLEASE TAKE NOTICE that, at a Special Term of the above named
Court, to be held on Wednesday, December 28, 1966, at 10:00 a.m. on
said date, or as soon thereafter as counsel can be heard, at the
Federal Court House in the City of Saint Paul, Minnesota, the
defendants State of Minnesota, and The State of Minnesota will move
this Honorable Court to dismiss the above entitled action on the
grounds and for the reasons stated in the attached motion.

ROBERT W. MATTSON
Attorney General

LINUS J. HAMMOND
Assistant Attorney General

Attorneys for above defendants
102 State Capitol
Saint Paul, Minnesota 55101

12/1/66
Corrected
notice of motion
be submitted.
The copy in 3 sheets
Certified February 16, 1967
FRANK A. MASSEY, CLERK.

BY: *Eller M. Ellis*
Deputy

UNITED STATES DISTRICT COURT
for the
DISTRICT OF MINNESOTA
THIRD DIVISION

Civ. Action No. 3 - 66 - 340

ALFRED M. JOYCE, as Executor of the
Last Will and Testament of
HELEN A. PATTERSON, Decedent,
Plaintiff,
vs.

Supreme Court of the State of Minnesota,
Oscar R. Knutson, Thomas Gallagher,
Martin A. Nelson, William P. Murphy,
James C. Otis, Walter F. Rogosheske, and
Robert J. Sheran,
The District Court of the County of
Dakota - First Judicial District -
State of Minnesota, and
The State of Minnesota,
Defendants.

MOTION TO DISMISS
(Rule 12b)

Now comes the defendants Supreme Court of the State of Minnesota,
Oscar R. Knutson, Thomas Gallagher, Martin A. Nelson, William P. Murphy,
James C. Otis, Walter F. Rogosheske, and Robert J. Sheran, and respect-
fully moves this Honorable Court to dismiss the above entitled action
for the following reasons and grounds:

I.

That this Honorable Court has not jurisdiction of the subject
matter of the action.

II.

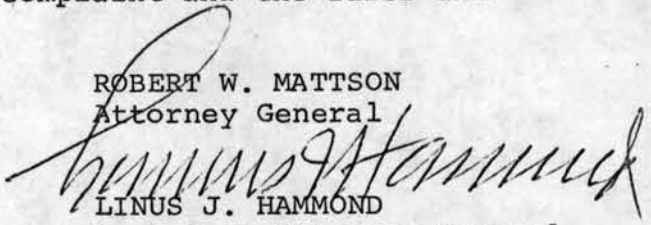
That this Honorable Court has not jurisdiction of the persons
of defendants.

III.

That the complaint fails to state a claim upon which relief can
be granted against either or all of the defendants here named.

Said motion will be based on the complaint and the files and
records herein.

ROBERT W. MATTSON
Attorney General


LINUS J. HAMMOND
Assistant Attorney General

Dated this 30 day of
November, 1966.

Attorneys for above defendants
102 State Capitol
Saint Paul, Minnesota 55101

STATE OF MINNESOTA)

COUNTY OF RAMSEY)

(ss.
)

AFFIDAVIT OF SERVICE BY MAIL

Alfred M. Joyce v. Supreme Court et al.
Re. Civ. Action No. 3-66-340 (USDC)

DOLPHINE V. KLEIN

being duly sworn on oath deposes and says that she is a secretary in the office of the Attorney General for the State of Minnesota; that, as such secretary on the date of the making of this affidavit, she deposited in the United States Mail at the State Capitol, in the City of Saint Paul, State of Minnesota, County of Ramsey, a copy of the within NOTICE and MOTION TO DISMISS in the above captioned case, properly enveloped and with postage prepaid, and addressed as follows:

Jerome Daley, Esq.
Attorney at Law
28 E. Minnehaha Street
Savage, Minnesota

and that same constitutes service of said NOTICE and MOTION TO DISMISS upon plaintiff's attorney in the above captioned case.

Dolphine V. Klein

Subscribed and sworn to before me
this 30th day of November, 1966.

Roberta R. Schneider
ROBERTA R. SCHNEIDER
Notary Public, Scott County, Minn.
My Commission expires June 19, 1972

UNITED STATES DISTRICT COURT
for the
DISTRICT OF MINNESOTA
THIRD DIVISION

ALFRED M. JOYCE, as Executor of the
Last Will and Testament of
HELEN A. PATTERSON, Decedent,

Plaintiff,

vs.

Supreme Court of the State of Minnesota,
Oscar R. Knutson, Thomas Gallagher,
Martin A. Nelson, William P. Murphy,
James C. Otis, Walter F. Rogosheske,
Robert J. Sheran,
The District Court of the County of
Dakota - First Judicial District -
State of Minnesota, and
The State of Minnesota,

Defendants.

Civ. Action No. 3 - 66 - 340

NOTICE OF MOTION
TO DISMISS
(Rule 12b)

TO: Plaintiff above named, and

Jerome Daley, Esq., his attorney,
28 E. Minnehaha Street
Savage, Minnesota

PLEASE TAKE NOTICE that, at a Special Term of the above named
Court, to be held on Wednesday, December 28, 1966, at 10:00 a.m.
on said date, or as soon thereafter as counsel can be heard, at the
Federal Court House in the City of Saint Paul, Minnesota, the
defendants State of Minnesota, and The State of Minnesota will move
this Honorable Court to dismiss the above entitled action on the
grounds and for the reasons stated in the attached motion.

ROBERT W. MATTSON
Attorney General

Linus J. Hammond
LINUS J. HAMMOND
Assistant Attorney General

Attorneys for above defendants
102 State Capitol
Saint Paul, Minnesota 55101

A true copy in 3 sheets
Certified *February 16, 1970*
FRANK A. MASSEY, CLERK,
BY: *Deleen A. Ellis*
Deputy

UNITED STATES DISTRICT COURT
for the
DISTRICT OF MINNESOTA
THIRD DIVISION

Civ. Action No. 3 - 66 - 340

ALFRED M. JOYCE, as Executor of the
Last Will and Testament of
HELEN A. PATTERSON, Decedent,

Plaintiff,

vs.

Supreme Court of the State of Minnesota,
Oscar R. Knutson, Thomas Gallagher,
Martin A. Nelson, William P. Murphy,
James C. Otis, Walter F. Rogosheske,
Robert J. Sheran,
The District Court of the County of
Dakota - First Judicial District -
State of Minnesota, and
The State of Minnesota,

Defendants.

MOTION TO DISMISS
(Rule 12b)

Now comes the State of Minnesota and State of Minnesota, by
and through its Attorney General, Robert W. Mattson, Esq., and
Linus J. Hammond, Esq., Assistant Attorney General, and respect-
fully moves this Honorable Court to dismiss the above entitled
action for the following reasons and grounds:

I.

That this Honorable Court has not jurisdiction of the subject
matter of the action.

II.

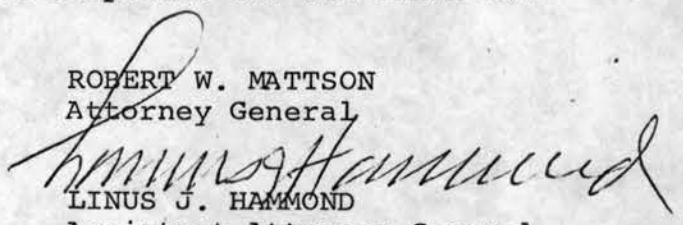
That this Honorable Court has not jurisdiction of the persons
of defendants.

III.

That the complaint fails to state a claim upon which relief
can be granted against either or all of the defendants here named.

Said motion will be based on the complaint and the files and
records herein.

ROBERT W. MATTSON
Attorney General


LINUS J. HAMMOND
Assistant Attorney General

Dated this 30 day of
November, 1966.

Attorneys for above defendants
102 State Capitol
Saint Paul, Minnesota 55101

STATE OF MINNESOTA)
(ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE BY MAIL

Alfred M. Joyce v. Supreme Court et al.
Re: Civ. Action No. 3-66-340 (USDC)

DOLPHINE V. KLEIN

being duly sworn on oath deposes and says that she is a secretary in the office of the Attorney General for the State of Minnesota; that, as such secretary on the date of the making of this affidavit, she deposited in the United States Mail at the State Capitol, in the City of Saint Paul, State of Minnesota, County of Ramsey, a copy of the within NOTICE and MOTION TO DISMISS in the above captioned case, properly enveloped and with postage prepaid, and addressed as follows:

Jerome Daley, Esq.
Attorney at Law
28 E. Minnehaha Street
Savage, Minnesota

and that same constitutes service of said NOTICE and MOTION TO DISMISS upon plaintiff's attorney in the above captioned case.

Dolphine V. Klein

Subscribed and sworn to before me
this 30th day of November, 1966.

Roberta R. Schneider
ROBERTA R. SCHNEIDER

Notary Public. Scott County, Minn.

My Commission expires June 19, 1972

UNITED STATES DISTRICT COURT, DISTRICT OF MINNESOTA, THIRD DIVISIONDATE Nov. 28, 1966 JUDGE Lord REPORTER BreviuNo. 3-66-340 CivilAlfred M. Joyce, as Ex. of the Appearances:Last Will and Testament of HelenJerome DalyA. Patterson, decedent

Plaintiff

Plaintiff

vs.

Supreme Court of the State of Minn.,Oscar R. Knutson, Thomas Gallagher,Martin A. Nelson, et al

Defendant

Defendant

Application for three-judge courtargued by counsel for therespective parties.

Mr. Hammond moves that a decision on this
application not be made until after hearing on a motion
for dismissal, which he will set for hearing Dec. 28, 1966.

Ordered: Hearing will be had on dismissal motion
Dec. 28th & the application for 3 Judge Court will be
heard further at that time.

(Signed)

Lawrence R. Tappan

MICROFILM

A true copy in 1 sheets
Certified February 10, 1970
FRANK A. MASSEY, CLERK
BY: Ellen M. Ellis
Deputy

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MINNESOTA - THIRD DIVISION

Civil Action File No. 3-66-340

Alfred M. Joyce, as Executor of
the Last Will and Testament of
Helen A. Patterson, Decedent,

Plaintiff,

Vs.

COMPLAINT

Supreme Court of the State of
Minnesota, Oscar R. Knutson,
Thomas Gallagher, Martin A.
Nelson, William P. Murphy, James
C. Otis, Walter F. Rogosheske,
Robert J. Sheran, The District
Court of the County of Dakota -
First Judicial District -
State of Minnesota, and The
State of Minnesota

PLAINTIFF, FOR HIS COMPLAINT HEREIN, STATES AND ALLEGES:

I.

That Plaintiff is a citizen and resident of the State
of Minnesota. That Plaintiff is the Executor of the Last Will
and Testament of Helen A. Patterson, Decedent, she having died
in the City of Hastings, County of Dakota, on the 31st day of
January, 1965, and who was at the time of her death a resident
of Hastings, in the County of Dakota, State of Minnesota, and
left an estate consisting of real and personal property in the
County of Dakota, State of Minnesota. That on the 24th day of
June, 1965, the Probate Court of the State of Minnesota established
and allowed the Last Will and Testament of the Decedent, Helen
A. Patterson, and admitted it to probate, which named Plaintiff
Alfred M. Joyce as one of the Executors of said Last Will and
Testament.

A true copy in 10 sheets
Certified February 16 1966
FRANK A. MASSEY, CLERK,

BY: Ellen M. Ellis
Deputy

- 1 -

Filed NOV 28 1966 19
Frank A. Massey, Clerk

By Lawrence R. J. J.
Deputy

II.

That Plaintiff is a Legatee under said Last Will and Testament and also as Executor of said Will, is under obligation imposed by Law to preserve, defend and protect the estate of Helen A. Patterson and all its assets. That the Defendant District Court has jurisdiction of an action now pending therein involving the estate and its assets. That the Defendant, The Supreme Court of Minnesota is the Court of Last Resort in the State of Minnesota, and the Defendant Knutson is the Chief Justice of said Court. That Defendants Otis, Nelson, Rogesheske, ^{Murphy} Sheran, and Gallagher are associate justices of said Court. That the Defendant State of Minnesota is a necessary party to this proceeding because the administration of its Constitution is involved.

III.

That this Court has jurisdiction because this is a case or controversy in Law and in Equity, arising under and involving rights protected by the following:

(A) The Declaration of Independence and more specifically the following portions thereof:

Paragraphs One, Two, Three, Seven, Fifteen, Twenty, Twenty-two, Twenty-three and Twenty-nine, and the same is referred to as though set out in full.

(B) The Constitution of the United States and more specifically the following parts thereof which are referred to as though herein set out in full, which are, to-wit:

The Preamble, Article I, Article II, Article III, Article IV, Amendments I through X, inclusive and Amendment XIV, thereof.

(C) The Constitution of the State of Minnesota from 1947 to date, and the following parts thereto, including Amendments thereof, which are referred to as though herein set out in full, to-wit:

The Preamble, Article I - Bill of Rights; Article III - Distribution of The Powers of Government; Article IV - Legislative Department; Article VI - Judiciary; Article XIV - Amendments to the Constitution.

(D) That this Court has jurisdiction under the provisions of the Civil Rights Act, 42 U.S.C., Sections 1983 and 1988, and 28 U.S.C., Section 1343, Subdivision 3, and is brought to redress a deprivation of rights secured by said U. S. Statute.

IV.

That Volume 27, Minnesota Statutes Annotated contains what purports to be the Rules of Civil Procedure for the District Courts of Minnesota, found therein in page 74 through page 158, and which are referred to herein as though set out in full.

V.

That attached hereto and made a part hereof as Exhibit A, a true and correct copy of the Enabling Act, passed by the Minnesota Legislature Laws 1947, Chapter 498.

That attached hereto and made a part hereof as Exhibit B, is the Order of the Supreme Court of the State of Minnesota, which orders the said rules to be effective on January 1, 1952. That all other orders amendatory thereof are referred to as though set out in full.

VI.

That the Enabling Act referred to in Exhibit A is an attempted delegation of legislative power by the Legislature to the Judicial Branch of the State of Minnesota.

That the Order of the Supreme Court dated June 25, 1951, is an attempted exercise of legislative power by the Judicial Branch of the Government of the State of Minnesota. That the Supreme Court of the State of Minnesota never did have and does not now have the power and authority to abolish, render

ineffective, void, or negate any Statute of the State of Minnesota; nor can said Court or its members enact substantive laws for the courts or people of Minnesota in the form of court rules or otherwise.

That Chapters 540 through and including 550 of Minnesota Statutes Annotated have never been repealed, and are in full force and effect, notwithstanding the action of the Legislature and Supreme Court of the State of Minnesota, as is set out in Exhibits A and B herein to invalidate the same.

VII.

That in enacting said Rules, said Supreme Court of Minnesota, and the Judges thereof, including Defendants herein, acted and are continuing to act, wholly without Jurisdiction, contrary to the Constitution of the State of Minnesota. That the said rules of Civil Procedure is used for the purpose of circumventing and defeating Plaintiff's rights as protected by the Declaration of Independence, Constitution of the United States and Constitution of Minnesota.

That said activity as is hereinbefore alleged constitutes a transfer of legislative and political power to the Minnesota State Bar Association and the member lawyers thereof, to the Judges of the Supreme Court of Minnesota and to the District Courts Judges of Minnesota.

That the District Court of Dakota County, Minnesota is and has been following the procedure set up by the said New Rules of Civil Procedure pursuant to the Order of the Supreme Court.

VIII.

That during Helen A. Patterson's lifetime and up to her death on January 31, 1965, by reason of said rules, she was removed from her homestead valued in excess of \$100,000.00, without jury trial and without Due Process of Law, nor any

trial whatsoever. That using the New Rules of Civil Procedure as a basis summary, Judgment was ordered against her. In addition thereto, she was deprived of her personal property without due process of law.

That the procedure set up by the Rules entailed substantial additional expense to the litigation Helen Patterson was involved in.

That between 1961 and 1964 Helen A. Patterson made through her Counsel, numerous applications, in appropriate proceedings, to the Supreme Court, to invalidate and set aside the said Rules and to avoid the effect thereof. All applications and petitions were preemptorially denied. That further application or petition to said Court or the Justices of the Supreme Court is useless.

That Plaintiff is satisfied, to a moral certainty, that the Justices of said Supreme Court harbor a subsisting prejudice against the Declaration of Independence, Constitution of the United States and the State of Minnesota, and bias in favor of the annulment, avoidance and nullification thereof. That Chief Justice Knutson has refused to honor Affidavits of Prejudice made in good faith and upon substantial grounds in matters where Helen A. Patterson was involved and effectuated decisions against her. That he has openly come out for the unqualified abolition of the ancient and sacred right to trial by Jury in the United States. That there are other instances of denial of Constitutional Rights, too numerous to mention here. That therefore, it is apparent and clear that further application to said Court or the Justices thereof is useless.

IX.

That the Estate of Helen A. Patterson is still involved in litigation in the Dakota County District Court at the present time. That because of said Rules, Plaintiff is deprived of the benefit of Statutory and legal procedure and has been subjected

to a procedure foreign to our Constitution and unacknowledged by our laws.

That actual additional expense for legal service is caused by the said Rules by reason of the provisions thereof. That said Rules constitute a violation of the unreasonable search and seizure provision of the U. S. Constitution, an invasion of privacy and a nuisance.

That the Discovery Provisions of said Rules cause additional expense, not contemplated for by the Constitution or Statutes of Minnesota to Plaintiff's actual damage. That said Discovery Rules are found in Volume 27 A, M.S.A, and are referred to herein as though set out in full.

That the^{Probate} Court has made an Order allowing the Will of Helen A. Patterson which is now on appeal in the Dakota County District Court.

X.

That in the District Court it is impossible to obtain a Judgment that complies with the requirements of Due Process of Law with the Rules in apparent force and effect.

XI.

That there will be of necessity, further litigation in the District Court of Dakota County in the administration of the estate of Helen A. Patterson.

WHEREFORE, Plaintiff, as named Executor of the Last Will and Testament of Helen A. Patterson, demands relief and Judgment as follows:

1. Pursuant to Sections 2281 through 2284 28 USC Plaintiff hereby makes application that the above entitled action be heard and determined by a District Court of Three Judges under Section 2284, United States Code.

2. For declaratory Judgment that:

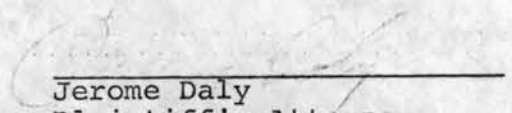
A. The Enabling Act set out in Exhibit A to the Complaint be declared unconstitutional.

B. The Order of the Supreme Court of Minnesota dated June 25, 1951 and all Orders amendatory thereof, is declared Unconstitutional.

3. That the Supreme Court of Minnesota and the Justices thereof be permanently enjoined from enacting rules of substantive law, whether Procedural or otherwise, for the District Courts of Minnesota, pursuant to the Enabling Act referred to herein or otherwise.

4. That the District Court of Dakota County be permanently enjoined from giving any force or effect to said Rules.

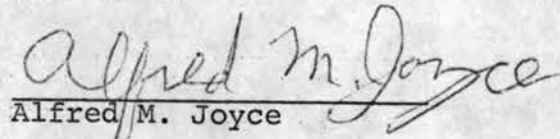
5. For costs and disbursements incurred herein.


Jerome Daly
Plaintiff's Attorney
28 E. Minnesota Street
Savage, Minnesota


Dated this 22nd day of November, 1966
at Savage, Minnesota

STATE OF MINNESOTA,
COUNTY OF SCOTT) ss

ALFRED M. JOYCE, being duly sworn, states he is the Plaintiff in the above entitled action, that he has read the foregoing Complaint and that the same is true.


Alfred M. Joyce

Subscribed and sworn to before me this 22nd day of November, 1966 at Savage, Minnesota.


Jerome Daly, Notary Public
SCOTT COUNTY, Minnesota
My Commission expires
January 17, 1973

Enabling Act

(Laws 1947, c. 498; M.S.A. § 480.051 et seq.)

An act authorizing the supreme court to regulate by rules the pleading, practice, and procedure in civil cases in all the courts of this state.

Be it enacted by the Legislature of the State of Minnesota:

[480.051] Section 1. Regulate pleading, practice, and procedure. The supreme court of this state shall have the power to regulate the pleadings, practice, procedure, and the forms thereof in civil actions in all courts of this state, other than the probate courts, by rules promulgated by it from time to time. Such rules shall not abridge, enlarge, or modify the substantive rights of any litigant.

[480.052] Sec. 2. Advisory committee. Before any rules are adopted the supreme court shall appoint an advisory committee consisting of eight members of the bar of the state and at least two judges of the district courts and one judge of a municipal court to assist the court in considering and preparing such rules as it may adopt.

[480.053] Sec. 3. Recommendations by judicial council. The judicial council, upon the request of the supreme court or upon its own initiative in accordance with the provisions of Minnesota Statutes 1945, Chapter 483, may at any time make recommendations to the court for its consideration concerning rules of pleading, practice, procedure and the forms thereof in civil actions.

[480.054] Sec. 4. Distribution of proposed rules; hearing. Before any rule for the district or municipal courts is adopted, the supreme court shall distribute copies of the proposed rule to the bench and bar of the state for their consideration and suggestions and give due consideration to such suggestions as they may submit to the court. The Minnesota State Bar Association, the District Court Judges Association or the Municipal Court Judges Association may file with the court a petition specifying their suggestions concerning any existing or

IX

proposed rule and requesting a hearing thereon. The court shall thereupon grant a hearing thereon within six months after the filing of the petition.

[480.055] Sec. 5. Rules not in conflict. Subdivision 1. Other courts. Any court, other than the supreme court, may adopt rules of court governing its practice; the judges of district courts, pursuant to Minnesota Statutes 1945, Sections 484.52, 484.33, and the judges of municipal courts, pursuant to Minnesota Statutes 1945, Section 488.16, may adopt rules not in conflict with the rules promulgated by the supreme court.

Subd. 2. Bureaus. This act shall not affect the power of any other statutory body to make rules governing its practice.

[480.056] Sec. 6. Present laws effective until modified. All present laws relating to pleading, practice, and procedure, excepting those applying to the probate courts, shall be effective as rules of court until modified or superseded by subsequent court rule, and upon the adoption of any rule pursuant to this act such laws, in so far as they are in conflict therewith, shall thereafter be of no further force and effect.

[480.057] Sec. 7. Promulgation. Subdivision 1. Effective date of rules; publication. All rules promulgated under this chapter shall be effective at a time fixed by the court and shall be published in the appendix to the official reports of the supreme court and shall be bound therewith.

Subd. 2. Index; printing, publishing and distributing. The revisor of statutes shall index and the commissioner of administration shall print, publish, and distribute copies thereof to the bench and bar and as required by law.

Sec. 8. Right reserved. This act shall not abridge the right of the legislature to enact, modify, or repeal any statute or modify or repeal any rule of the supreme court adopted pursuant thereto.

Approved April 23, 1947.

EXHIBIT "A"

(1)

EXHIBIT "B"

State of Minnesota
in Supreme Court

ORDER OF PROMULGATION OF THE RULES
GOVERNING THE REGULATION OF PLEADINGS,
PRACTICE, PROCEDURE, AND THE FORMS THERE-
OF IN THE DISTRICT COURTS OF THE STATE OF
MINNESOTA.

Whereas, The Advisory Committee appointed by the Supreme Court under the provisions of L.1947, c. 498, Sec. 2, to assist the court in considering and preparing rules governing the regulation of pleadings, practice, procedure and the forms thereof in the District Courts, has reported and recommended to this court the hereto annexed 89 pages of rules numbered 1 to 86.02, together with 14 pages of appendices thereto, and whereas this court has considered all of the rules so reported and finds them in the furtherance of justice,

Now therefore, it is ordered That the hereto annexed rules be, and the same hereby are, promulgated and shall be effective on January 1, 1952, for the regulation of pleadings, practice, procedure, and the forms thereof in the District Courts of the State of Minnesota.

Dated June 25, 1951.

BY THE COURT

CHARLES LORING
Chief Justice

THOMAS GALLAGHER
CLARENCE R. MAGNEY
LEROY E. MATSON
FRANK T. GALLAGHER
OSCAR R. KNUTSON
THEODORE CHRISTIANSON
Associate Justices

Filed June 25, 1951
Grace Kaercher Davis, Clerk

NOTICE OF APPLICATION

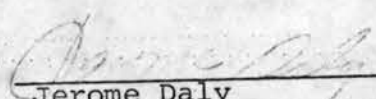
TO: THE DEFENDANTS NAMED HEREIN AND TO EACH OF THEM:

You will Please take Notice, that Plaintiff herein will make application to the United States District Judge in charge to the Civil Special Term, to be designated by the Clerk of United States District Court, for the relief in paragraph one of the Wherefore Clause to wit: the application that the above entitled action be heard by a District Court of Three Judges pursuant to United States Statutes.

That said Application will be made at the United States District Court House, 6th and St. Peter Streets, St. Paul, Minnesota, 3rd floor before said assigned Judge at 10:00 A.M. *Nov 28, 1966* or as soon thereafter as Counsel can be heard.

The said Application will be based upon the verified Complaint herein .

November 22, 1966
Savage, Minnesota


Jerome Daly
Plaintiff's Attorney
28 East Minnesota Street
Savage, Minnesota

San Diego Union

DAY MORNING, NOVEMBER 1, 1969

Reserve Notes Face Challenge

Attorney Unable To Get Silver In Trade, Sues U.S.

By MITCH HIMAKA

The former chief assistant U.S. attorney here yesterday filed suit in federal court challenging the use of federal reserve notes as "lawful money."

Attorney Mobley M. Milam, who served in the federal prosecutor's office three years until Oct. 18, named as defendants the United States, the Federal Reserve System and the Federal Reserve Bank of San Francisco.

Milam filed the two-page suit and explained his action in a press conference.

He said the suit stemmed from the bank's refusal to redeem a \$50 note for lawful money on his demand. He defined "lawful money" as silver dollars or Lincoln greenbacks.

MADE REQUEST IN L.A.

Milam said he made the request of bank officials in Los Angeles Oct. 27 and was told that they would redeem it only for other notes.

He pointed out that the note carries the notation that it could be redeemed in lawful money at the U.S. Treasury or at any federal reserve bank.

Milam said he and a companion were taken to a vault at the bank and told of seeing stacks of money.

Milam in the suit asks that the \$50 note be redeemed in lawful money and asks judgment against the government, reserve system and the bank of \$50 in lawful money and interests.

He said he was filing the suit on behalf of all the people in the country.

"This is a suit to force the government and federal reserve system to redeem federal reserve notes in lawful money," Milam said.

"Contrary to what many people will think, this suit is very important. It goes to the very foundation of our government and society.

"It strikes at the root cause of our basic problems of inflation, the public debt and loss of our freedom to big government."

He said the Treasury Department's contention that federal reserve notes shall be redeemed in themselves is illogical.

DEFINED BY STATUTE

"It is like saying 'green stamps can only be redeemed in green stamps,' he said. "Federal reserve notes, until recently changed by bureaucratic fiat, specifically promise to pay to the bearer on demand so many dollars.

"A dollar throughout our history has been defined by statute as so many grains of silver or gold and nothing else . . . The only other thing defined by statute as 'lawful money' is United States Notes, or greenbacks."

Milam said the federal reserve is privately owned and its owners are "not only getting rich at our expense but also creating the huge public debt which is the basic cause of the inflation which is tearing this country apart."

Milam, who admits having silver mining interests in Montana, also accused the government of subsidizing the Silver Users Association by selling 1.5 million ounces of silver at below costs.

RESPONDENT'S EXHIBIT
2/11/70 L.M.F.
42174
12

Respondents' ex NNN
lmy 2/18/70

BUSINESSMAN AIMS 'EXTORTION, BLACKMAIL' CHARGE AT I.R.S.

By EDD CLARK

SANTA ANA —The Federal Internal Revenue Service was accused Wednesday night of using "extortion and blackmail to collect illegal redemption money for a private corporation."

The charge was made by 66-year-old Kansas businessman and self made "tax expert" A. J. Porth, speaking before about 200 persons at the Santa Ana Ebell Club. Porth's "tax revolution" address was sponsored by the Patriotic Party.

Tall, white-haired, Tom Paine-ish Porth urged his listeners to learn their "constitutional rights" and join his battle against the IRS and the Federal Reserve Bank system.

Porth explained how his 20-year struggle to correct by peaceable means what he termed the "unconstitutional and destructive" malpractices of the IRS and Federal Reserve system led to his being convicted on five tax evasion charges—and sentenced to five years imprisonment.

He said he currently is free on bail, pending appeal of the federal court conviction in 1967.

Porth said he began a careful study of tax and constitutional law after he lost a federal circuit court of appeals case in 1954.

"In that case," he said, "I was a plaintiff, and I learned it was necessary to become a defendant to pursue my cause."

Porth's cause was explained as a firm belief it is unconstitutional to force a businessman to "steal" from his employees, by withholding federal taxes from their wages.

Four of the five charges upon which Porth was convicted involved "willful refusal to collect and hand over" to the federal government income and social security payments.

The fifth charge was Porth's failure to file an income tax return in 1961, and refusal to pay the penalties involved.

The former construction business operator from Wichita, Kan., said his objection to employee withholding and the income tax itself are based on the Constitution's 13th Amendment, which outlaws slavery.

He also said the laws he was convicted of violating were passed only 46 days after the circuit court of appeals rejected his original attempt to prove it unconstitutional to require employers to collect federal withholding taxes.

Porth charges the collection or payment of federal income taxes is a violation of the 13th amendment because the money collected is used to redeem the debts incurred by federal reserve notes.

Taxation to redeem federal reserve notes make men slaves because they are made responsible for debts with which the persons forced to pay had nothing to do with creating.

He charged the Internal

Revenue Service is a "publicly financed collection agency which uses extortion and blackmail to collect redemption money for the privately owned federal reserve banks."

His scorn for the Federal Reserve Banking Act of 1913 is bitter and all-encompassing. In addition to charging the act as being a completely "unconstitutional usurpation of the duties and responsibilities of Congress," he credited the Federal Reserve system with responsibility for high taxes, inflation, and the national debt.

"The Federal Reserve system," he charged, "has hauled the American eagle right out of the sky and put it in a chicken coop."

Porth said Congress, in passing the act, "took away constitutional money and un-

constitutionally issued authority to a private concern (the Federal Reserve system) to issue notes and make the United States responsible."

"A Federal Reserve note is not lawful money," he said, "but an obligation to pay."

"When the Federal Reserve issues a \$10,000 note, it costs the Federal Reserve bank less than a penny, but it creates a \$10,000 obligation against the people who are forced (by government decree) to use it for money."

Porth urged his fellow citizens to study the tax and banking laws, and the U.S. Constitution to their constitutionally guaranteed rights.

★ Los Angeles Times

Fri., April 12, 1968—Part I 23

Court Kills L.A. Forms for Arrests

SAN FRANCISCO (AP)—

The State Supreme Court has outlawed what it calls the "Los Angeles police pattern" of printed arrest warrant forms.

The court ruled 4-3 Wednesday, pursuant to recent U.S. Supreme Court decisions, to invalidate printed forms which merely recite the law defining the offense.

Warrants must provide facts on which a judge can determine if there is reason to believe the individual involved has committed a crime, it said.

The ruling reversed the Los Angeles forgery conviction of Gerald Sesslin of Bell Gardens and Frank Harper of Los Angeles.

Ten Commandments for the New Judge

By

HONORABLE EDWARD J. DEVITT
Chief Judge, United States District Court
For The District of Minnesota

The President of the United States is appointing 73 persons to new federal judgeships, and with the filling of accumulated vacancies in present offices, we will soon have 104 new United States Judges. This is the largest number of new appointments ever made by a President of the United States in a single term. It increases our judicial manpower by one-fourth. We need them and we welcome them.



Edward J. Devitt

For years the creation of additional judgeships has been urged upon the Congress by the American Bar Association, the Judicial Conference of the United States, the American Judicature Society, and many others. Now we have the new judgeships—even more than we asked for, in fact. No longer can we complain that the backlog of cases—6,200 pending in the District Courts for more than three years, some 2,000 cases pending more than five years—is caused by insufficient manpower. It is our responsibility, new judges and old, to clean up the accumulation of pending cases and to maintain current dockets in every District of the United States so that equal justice for all will be insured by prompt justice to all.

With helpful purpose, I here suggest ten commandments to guide the new federal judge in his great responsibility. Although directed principally to the federal judge, I hope that these observations also may be of assistance to all new judges, and be of interest to members of the Bar.

THE AUTHOR—Edward J. Devitt is Chief Judge of the United States District Court for the District of Minnesota. He is a member of the Committee on Court Administration of the Judicial Conference of the United States, and has frequently been called upon to address judicial conferences and seminars. Recent addresses by Judge Devitt have been on the Federal Indeterminate Sentence Law and Improvements in Federal Sentencing Procedures.

Formerly a member of the United States Congress, Judge Devitt served on the Judiciary Committee of the House of Representatives. In World War II he served in the Intelligence Corps of the United States Navy and was discharged with the rank of Lieutenant Commander. He was awarded the Purple Heart. Prior to his appointment to the United States District Court his distinguished judicial service included judicial experience as a municipal judge and Probate Judge of Ramsey County, Minnesota. His experience at the bar included both private practice and service as an Assistant Attorney General for the State of Minnesota. Actively serving with community service organizations, Judge Devitt has been commended frequently for his many contributions to both the legal profession and to the community.

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Ten Commandments for the New Judge

First Commandment

BE KIND

If we judges could possess but one attribute, it should be a kind and understanding heart. The Bench is no place for a cruel or callous man regardless of his other qualities and abilities. There is no burden more onerous to the judge than the imposition of sentence in criminal cases. Would then that he had the wisdom of Solomon. But absent that, and possessing as he does the plenary and awesome power of the federal magistrate, he can thank God for a kindly heart. An understanding heart was the gift of God asked by the ancient king, and it is that gift above all others for which a judge should pray.

Second Commandment

BE PATIENT

Patience is one of the cardinal virtues, and it should be one of the most important commandments for the judge. The Lord High Chancellor of Great Britain says, "There is much to be said for the view that a kindly and patient man who is not a profound lawyer will make a far better judge * * * than an ill-tempered genius."¹

One of my associates says that there are but three fundamental requisites for a good judge. First, he should have patience; second, he should have patience; and third, he should have patience.

We must constantly keep in mind the marked displeasure we felt as practicing lawyers for the judge who wouldn't hear us out. It may well be a waste of time for us to listen to extensive arguments on a point of law upon which we have already made up our mind. But we owe it to the lawyer to let him make his point. It may well be that he can change our mind—at least he is entitled to try.

Do you recall the irritation you felt toward the judge who "stuck his nose" in your lawsuit? How we all looked askance when he took over the questioning of our witnesses and led them down unwelcome paths, prematurely elicited answers to key questions, and completely disrupted our well-laid plans for the syste-

1. The Rt. Hon. The Viscount Kilmauir of Creich, "Judicial Qualities," 38 New Zealand Law Journal, 112, 114 (1960).

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matic presentation of our case. Minding our own business and permitting the lawyer to mind his is an essential corollary of patience.

The judge should be particularly patient with the young lawyer who comes to court for the first time. The reception we accord him will make a lasting impression, good or bad. We want it to be good.

Third Commandment

BE DIGNIFIED

I don't mean that you must go around with nose on high putting on airs; or that, upon assumption of office, you should change your whole manner of life and circle of friends; or that, with monk-like subjection, you withdraw from the world.

I only mean that you must possess an appreciation of the great prestige of the judicial office and of the respect which is accorded it and its occupant by the American public.

"To the people of his jurisdiction, the judge is the personal embodiment of our American ideal of justice," according to Arch M. Cantrell, former Chief Counsel of the Internal Revenue Service. He goes on to say that:

"People generally, and lawyers as well, want to look up to their judges. They want to admire and respect him for his ability as a judge and for the way he runs his court. The ideal of justice seems to be innate in every American, and part of his nature is to want to look up to, and respect, his court and his judge."²

Daniel Webster is quoted as saying that " * * * there is no character on earth more elevated and pure than that of a learned and upright judge and * * * he exerts an influence like the dews of heaven falling without observation."³

So long as he knows the public's regard for the judicial office, the conscientious judge will conduct himself fittingly.

2. Cantrell, "The Judge as a Leader: The Embodiment of the Ideal of Justice," 45 ABAJ, 339 (April, 1959).
3. As quoted during a memorial service for Justice Marcus Perrin Knowlton in a session of the Supreme Judicial Court of Massachusetts on March 22, 1919, as reported in 231 Mass. 625.

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Fourth Commandment

DON'T TAKE YOURSELF TOO SERIOUSLY

The transition from Bar to Bench is a big one and making the change with equilibrium is not always the easiest task. We must keep our heads about us. Senior Circuit Judge Harold R. Medina says:

"After all is said and done, we cannot deny the fact that a judge is almost of necessity surrounded by people who keep telling him what a wonderful fellow he is. And if he once begins to believe it, he is a lost soul."⁴

Some judges may become so impressed with their importance that they forget the practical facts of their judicial birth. It is a fact that most federal judges are appointed through the influence or approval of United States Senators or other political officials.⁵ This is not to detract from their qualifications, especially in recent years when the absence of objections from the American Bar Association is almost a prerequisite to appointment. In practical effect, judicial nominees must now be acceptable to the organized Bar. This is a great step forward and the persistent work of the Federal Judiciary Committee of the ABA is largely responsible for this meritorious state of affairs. I doubt if federal judges ever will be appointed solely on the basis of merit. That would be the millenium. So long as the United States Senate has the constitutionally granted authority to "advise and consent" to such appointments, it is unlikely that some politics will not be involved in most of them. But as long as we get qualified Democrats during a Democratic administration and qualified Republicans during a Republican administration, we are doing about as well as can be expected.

But the truth remains that you were appointed to office because, personally or vicariously, you knew the United States Senator; and that, I emphasize, is not a sinful thing at all. The point is that it is distinctly unbecoming to later claim that you were chosen solely because of your outstanding ability as a lawyer and leader of the Bar, and that you were reluctantly persuaded to

4. Medina, "Some reflections on the Judicial Function; A Personal View-point," 39 ABAJ, 107, 108.

5. For some interesting background on federal judicial appointments during part of the Truman and Eisenhower administrations, See Miller, "The Selection of the Federal Judiciary," 45 ABAJ, 445.

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give up your lucrative practice and were practically dragged up to the Bench. That would be taking yourself too seriously.

The greatest deterrent to taking yourself too seriously in any respect is a wise and observing wife who periodically will say, "Don't get so Judgey."

Fifth Commandment

REMEMBER THAT A LAZY JUDGE IS A POOR ONE

The road to success on the Bench is the same as in any other field of human endeavor. It must be characterized by hard work. Some people, and many lawyers, think that a judgeship is a sinecure—a form of retirement for the hard-working practitioner. That, of course, is not the case.

The truth is that you must learn to be a judge. It takes study and time. Things are completely different from this other side of the Bench. In this country, we are coming to appreciate that which legal leaders of the Civil Law countries have recognized for a long time—that lawyers should be especially trained for the Bench. That is why it is important that new judges be relatively young—preferably in their 40's, I would say. Then they are young enough to learn the art of judging, and, after learning it, are able to contribute a substantial period of experienced service before reaching normal retirement age.

Sixth Commandment

DON'T BE DISMAYED WHEN REVERSED

If you are appointed to the trial Bench, the most shocking experience which awaits you is the opening of your morning mail to find the slip opinion of the appellate court in one of your cases, at the bottom of which you see the ominous word "Reversed." First you are shocked, later dismayed, then disappointed. Surely those judges couldn't have made such a mistake! But after you slowly read the opinion of your superiors, containing as it does logic and good reasoning, together with a tactfully included reference to the "learned trial judge's" proper handling of some aspects of the whole case, the experience loses its shock; and when it has happened a few times, you even come to the honest realization that in most instances the Court of Appeals is justified in reversing you.

Reversal by a superior court now and then keeps us on our toes. It teaches us to be careful and industrious; it curbs our

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impetuosity and nurtures judicial-mindedness. Every so often, however, even these august appellate judges make mistakes. Thinking they possess a superior wisdom, rather than just a superior commission, they sometimes exceed their error-finding responsibilities, and substitute their judgment and findings for those of the trial court. The law says they can't do this; but they do! We should view their folly with tolerance. Really, there is nothing else we can do.

Here is a word of advice about reversals. Don't keep track of them. The judge who charts a batting average as to his percentage in the Court of Appeals is likely to become a hesitant and timid judge in the future. Such record-keeping may make him too cautious—so sensitive to committing error that it deprives him of the intellectual courage which should be the hallmark of a good trial judge.

Seventh Commandment

REMEMBER THERE ARE NO UNIMPORTANT CASES

This is another way of saying that you must give the same conscientious attention to every matter that comes before you. We may think cases can be classed as important and unimportant, but the litigants do not feel that way. Their case is very important to them, and it must be to us.

We must not let ennui overcome us. The work of a judge is too important and the results of his action too far-reaching. "The Judge who becomes accustomed to rendering justice is like the priest who becomes accustomed to saying mass," says Piero Calamandrei, the late Italian lawyer and scholar, whose writings have gained such an appreciative American audience in recent years. He goes on to say that:

"Fortunate indeed is that country priest who, approaching the altar with senile step, feels the same sacred turbulation in his breast which he felt as a young priest at his first mass. And happy is that magistrate who even unto the day of his retirement experiences the same religious exaltation in rendering judgment which made him tremble 50 years before, when as a young praetor he handed down his first decision."⁶

6. Piero Calamandrei, "Eulogy of Judges," p. 72, Princeton University Press, 1946.

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I have come to have a great regard for the importance of this commandment after observing one of my judicial colleagues. He is a veteran of 30 years on the federal Bench, and he gives today the same meticulous care and attention to every case and to every criminal sentencing that he did when he first ascended the Bench. I need not add that such a judge has earned, and possesses, the highest judicial reputation.

Eighth Commandment

DON'T IMPOSE LONG SENTENCES

A short sentence will most likely accomplish the same objective. It is primarily the fact of incarceration, not the length of it, which best serves the ends of justice. Long sentences may well over-punish a man and so embitter and discourage him that he loses his desire for rehabilitation.

If you are debating between the wisdom of imposing a prison sentence or placing the defendant on probation, then use probation. There is at least some chance it will work, and if it doesn't, you can quickly revoke it.

Do not seek or encourage a reputation as a "tough judge" or as an "easy" one. Just decide each case on its merits and impose the sentence which your best judgment dictates; then the pattern of your actions will shape the reputation which you properly deserve.

The unjustified disparity in sentences imposed upon different persons for the same class of offense is a glaring weakness in the administration of our federal criminal system. Disparity can be best minimized or obviated by the general use of the new federal indeterminate sentencing law by all judges.⁷

This wise law permits the judge to delegate to the Board of Parole the fixing of the exact termination date of federal criminal sentences, depending upon the prisoner's progress in rehabilitation. In such matters the hindsight of the Parole Board is better than the foresight of the sentencing judge.

Some judges mistakenly believe that using this new tool constitutes an abdication of their traditional judicial responsibility. But this is not the case.⁸ Most of the states have long had similar

7. P.L. 85-752, 72 Stat. 845, 18 U.S.C.A. § 4208(a).

8. Devitt, "Improvements in Federal Sentencing Procedure," 24 F.R.D. 147.

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laws. It is the modern way to provide for individualized justice. Every new judge is urged to employ the indeterminate sentence principle in every case where it is applicable.

Ninth Commandment

DON'T FORGET YOUR COMMON SENSE

It may be that in the first blush of assuming the duties of a federal judge you will be so engrossed with conflicting statutes, inconsistent decisions and all kinds of government rules and regulations, that you will forget all about using one of the principal tools of a good judge, and that is common sense. Really, there is no substitute for it, with all respect to the West Publishing Company and the splendid law books it publishes. It has been said that "The law is common sense as modified by the Legislature."

"A judge will never go far wrong," said the now deceased Chief Justice Udall of the Arizona Supreme Court, "if he applies this test: Does my proposed action square with good, common sense?"⁹

You might be able to get by as a judge if you don't know much law, but you just can't make it without common sense.

Tenth Commandment

PRAY FOR DIVINE GUIDANCE

If you believe in a Supreme Being, you should pray to Him for guidance. Judges need that help more than anybody else.

9. Udall, "The Essential Characteristics of a Judge," *Journal of the American Judicature Society*, October, 1957, p. 69.

TITLE XXXVII.

COINAGE, WEIGHTS, AND MEASURES.

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|
| Sec. | Sec. |
| 3535. Enumeration of mints and assay-offices. | 3535. Deviations allowed in adjusting weights of gold coins. |
| 3536. Officers of mints. | 3536. Of silver coins. |
| 3537. Superintendents of certain mints to perform duties of treasurer. | 3537. Of minor coins. |
| 3538. Salaries of officers of mints. | 3538. Delivery of coins by coiner and trial of pieces. |
| 3539. Salaries of assistants, clerks, and laborers employed in the mints. | 3539. Trial-pieces to be sealed up and transmitted quarterly to the Mint at Philadelphia. |
| 3540. Oath of office, of officers, clerks, &c. | 3540. Disposal of clippings, &c. |
| 3541. Bonds of officers, clerks, &c. | 3541. Yearly settlement of coiner, melter and refiner. |
| 3542. Who to act in absence of Director, superintendent, &c. | 3542. Allowance for wastage. |
| 3543. General duties of superintendents. | 3543. Statement of balance-sheet to be sent by superintendent to Director of Mints. |
| 3544. Ibid. | 3544. Delivery of coin or bars to depositor. |
| 3545. Coins reduced in weight by abrasion. | 3545. Payment in money to depositors, when. |
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| 3547. Duties of assayers. | 3547. Appointment and meetings of assay commissioners. |
| 3548. Duties of melters and refiners. | 3548. Standard troy pound for regulation of coinage. |
| 3549. Duties of coiners. | 3549. Standard weights for mints and assay-offices. |
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| 3551. Gold coins of the United States and their weight. | 3551. National and other medals may be struck at Philadelphia. |
| 3552. Recoinage of gold coins. | 3552. Moneys arising from charges and deductions to be covered into Treasury. |
| 3553. Silver coins and their weight. | 3553. Business of assay-office at New York. |
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| 3555. Minor coins; their weight and alloy. | 3555. Duties, &c., of officers at New York. |
| 3556. Issue of other coins prohibited. | 3556. Salaries of officers at New York. |
| 3557. Inscriptions upon coins. | 3557. Appointment and salaries of assistants and employes at New York. |
| 3558. Gold and silver bars. | 3558. Business of mint at Denver and of assay-offices at Boise City and Charlotte. |
| 3559. Coining gold bullion; when deposits may be refused. | 3559. Appointment of officers at Denver, Boise City, &c. |
| 3560. Silver bullion may be received for forming into bars or trade-dollars. | 3560. Powers and duties of assayers at assay-offices. |
| 3561. Weighing bullion and ascertaining its value. | Compensation of employes. |
| 3562. Assay of bullion. | 3561. Bond and oath of officers and clerks. |
| 3563. Assayers to report to superintendent quality of bullion assayed. | 3562. Laws relating to mints extended to assay-offices. |
| 3564. Charges for converting bullion, &c., into coin. | 3563. Decimal system established. |
| 3565. Assayer to verify calculations of value of deposits and countersign certificate. | 3564. Value of foreign coins, how ascertained. |
| 3566. Purchase of bullion for silver coinage; the silver profit fund. | 3565. Value of the sovereign or pound sterling. |
| 3567. Paying out silver coin for gold coin authorized. | 3566. Recoinage of foreign coins. |
| 3568. Purchase of metals for minor coins; the minor coinage profit fund. | 3567. Spanish and Mexican coins. |
| 3569. Delivery of minor coins; redemption. | 3568. Their transmission for recoinage. |
| 3570. Transfer of bullion for formation into ingots. | 3569. Use of the metric system authorized. |
| 3571. Ingots to be assayed and receipted for. | 3570. Authorized tables of weights and measures. |
| 3572. Delivery of ingots to coiner for coinage. | |
| 3573. Standard of ingots used for coinage. | |
| 3574. Preparation and stamping of fineness of bars for payment of deposits. | |

SEC. 3495. The different mints and assay-offices shall be known as—

First. The mint of the United States at Philadelphia.

Second. The mint of the United States at San Francisco.

Third. The mint of the United States at New Orleans.

Fourth. The mint of the United States at Carson.

Enumeration of mints and assay-offices.

12 Feb., 1873, c. 131, s. 66, v. 17, p. 435.

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29 Jan., 1874, c.
19, v. 18, p. 6.
12 May, 1874, c.
168, v. 18, p. 45.
3 Mar., 1875, c.
143, v. 18, pp. 478, 479.

Officers of mints.

12 Feb., 1873, c.
131, s. 3, v. 17, p.
424.

Superintendents
of certain mints to
perform duties of
treasurer.

Ibid., s. 65.

Salaries of offi-
cers of mints.

Ibid., s. 12, p. 426.

20 June, 1874, c.
328, v. 18, p. 96.

Salaries of as-
sistants, clerks,
and laborers em-
ployed in the
mints.

12 Feb., 1873, c.
131, s. 12, v. 17, p.
426.

20 June, 1874, c.
328, v. 18, p. 96.

Oath of office of
officers, assistants,
and clerks.

12 Feb., 1873, c.
131, s. 10, v. 17, p.
425.

Bonds of officers,
assistants, and
clerks.

Ibid., s. 11, p. 425.

Who to act in ab-
sence of Director,
superintendent, or
other officer.

Ibid., s. 9, p. 425.

Fifth. The mint of the United States at Denver.

Sixth. The United States assay-office at New York.

Seventh. The United States assay-office at Boise City, Idaho.

Eighth. The United States assay-office at Charlotte, North Carolina.

SEC. 3496. The officers of each mint shall be a superintendent, an assayer, a melter and refiner, and a coiner; and, for the Mint at Philadelphia, an engraver; all to be appointed by the President, by and with the advice and consent of the Senate.

SEC. 3497. The superintendents of the mints at Philadelphia, San Francisco, and New Orleans shall be, and perform the duties of, treasurers of said mints respectively.

SEC. 3498. The officers of the several mints shall be entitled to the following salaries, to be paid monthly:

First. The superintendents of the mints at Philadelphia and San Francisco, to four thousand five hundred dollars a year each.

Second. The assayers, melters and refiners, and the coiners of the mints, to three thousand dollars a year each.

Third. The engraver of the Mint at Philadelphia, to three thousand dollars a year.

Fourth. The superintendent of the mint at Carson City to three thousand dollars a year.

Fifth. The assayer, the melter and refiner, and the coiner of the mint at Carson City, to two thousand five hundred dollars a year each.

SEC. 3499. There shall be allowed to the assistants and clerks of the several mints such annual salaries as the Director of the Mint may, with the approbation of the Secretary of the Treasury, determine, and to the workmen employed therein such wages as may be customary and reasonable according to their respective stations and occupations, to be determined by the superintendent, and approved by the Director of the Mint. The salaries provided for in this and the preceding section, and the wages of workmen permanently engaged, shall be payable in monthly installments.

SEC. 3500. Every officer, assistant, and clerk appointed for any mint shall, before he enters upon the execution of his office, take an oath before some judge of the United States, or judge of some court of record of the State in which such mint is located, faithfully and diligently to perform the duties thereof; in addition to other official oaths prescribed by law, such oath, duly certified, shall be transmitted to the Secretary of the Treasury. The superintendent of each mint may require such oath from any of the employés of the mint. [See §§ 1756, 1757.]

SEC. 3501. The superintendent, the assayer, the melter and refiner, and the coiner of each mint, before entering upon the execution of their respective offices, shall become bound to the United States, with one or more sureties, approved by the Secretary of the Treasury, in the sum of not less than ten nor more than fifty thousand dollars, with condition for the faithful and diligent performance of the duties of his office. Similar bonds may be required of the assistants and clerks, in such sums as the superintendent shall determine, with the approbation of the Director of the Mint; but the same shall not be construed to relieve the superintendent or other officers from liability to the United States for acts, omissions, or negligence of their subordinates or employés; and the Secretary of the Treasury may, at his discretion, increase the bonds of the superintendents.

SEC. 3502. Whenever any officer of a mint or assay-office shall be temporarily absent, on account of sickness or any other cause, it shall be lawful for the superintendent, with the consent of such officer, to appoint some person attached to the mint to act in the place of such officer during his absence; but all such appointments shall be forthwith reported to the Director of the Mint for his approval; and in all cases whatsoever the principal shall be responsible for the acts of his repre-

sentative. In case of the temporary absence of the superintendent, the chief clerk shall act in his place; in case of the temporary absence of the Director of the Mint the Secretary of the Treasury may designate some one to act in his place.

SEC. 3503. The superintendent of each mint shall have the control thereof, the superintendence of the officers and persons employed therein, and the supervision of the business thereof, subject to the approval of the Director of the Mint. He shall make reports to the Director of the Mint at such times and according to such forms as the Director may prescribe; which shall exhibit in detail, and under appropriate heads, the deposits of bullion, the amount of gold, silver, and minor coinage, and the amount of unparted, standard, and refined bars issued, and such other statistics and information as may be required.

General duties of superintendents of mints.

Ibid., s. 4, p. 424.

SEC. 3504. He shall keep and render, quarter-yearly, to the Director of the Mint, for the purpose of adjustment according to such forms as may be prescribed by the Secretary of the Treasury, regular and faithful accounts of his transactions with the other officers of the mint and the depositors; and shall also render to him a monthly statement of the ordinary expenses of the mint or assay-office under his charge. He shall also appoint all assistants, clerks, one of whom shall be designated "chief clerk," and workmen employed under his superintendence; but no person shall be appointed to employment in the offices of the assayer, melter and refiner, coiner, or engraver, except on the recommendation and nomination in writing of those officers, respectively. He shall forthwith report to the Director of the Mint the names of all persons appointed by him, the duties to be performed, the rate of compensation, the appropriation from which compensation is to be made, and the grounds of the appointment; and if the Director of the Mint shall disapprove the same, the appointment shall be vacated.

Ibid

SEC. 3505. Any gold coins of the United States, if reduced in weight by natural abrasion not more than one-half of one per centum below the standard weight prescribed by law, after a circulation of twenty years, as shown by the date of coinage, and at a ratable proportion for any period less than twenty years, shall be received at their nominal value by the United States Treasury and its offices, under such regulations as the Secretary of the Treasury may prescribe for the protection of the Government against fraudulent abrasion or other practices.

Coins reduced in weight by abrasion.

Ibid., s. 14, p. 426.

SEC. 3506. The superintendent of each mint shall receive and safely keep, until legally withdrawn, all moneys or bullion which shall be for the use or the expenses of the mint. He shall receive all bullion brought to the mint for assay or coinage; shall be the keeper of all bullion or coin in the mint, except while the same is legally in the hands of other officers; and shall deliver all coins struck at the mint to the persons to whom they shall be legally payable. From the report of the assayer and the weight of the bullion, he shall compute the value of each deposit, and also the amount of the charges or deductions, if any, of all which he shall give a detailed memorandum to the depositor; and he shall also give at the same time, under his hand, a certificate of the net amount of the deposit, to be paid in coins or bars of the same species of bullion as that deposited, the correctness of which certificate shall be verified by the assayer, who shall countersign the same, and in all cases of transfer of coin or bullion, shall give and receive vouchers, stating the amount and character of such coin or bullion.

Duties of superintendents in respect to coin and bullion.

Ibid., s. 4, p. 424.

SEC. 3507. The assayer shall assay all metals and bullion, whenever such assays are required in the operations of the mint; and shall make assays of coin or samples of bullion whenever required by the superintendent.

Duties of assayers.

Ibid., s. 5, p. 425.

SEC. 3508. The melter and refiner shall execute all the operations which are necessary in order to form ingots of standard silver or gold, and alloys for minor coinage, suitable for the coiner, from the metals legally delivered to him for that purpose; and shall also execute all the operations which are necessary in order to form bars conformable in all respects to the law, from the gold and silver bullion delivered to him for

Duties of melters and refiners.

Ibid., s. 6, p. 425.

that purpose. He shall keep a careful record of all transactions with the superintendent, noting the weight and character of the bullion, and shall be responsible for all bullion delivered to him until the same is returned to the superintendent and the proper vouchers obtained.

Duties of coiners.

Ibid., s. 7, p. 425.

SEC. 3509. The coiner shall execute all the operations which are necessary in order to form coins, conformable in all respects to the law, from the standard gold and silver ingots, and alloys for minor coinage, legally delivered to him for that purpose; and shall be responsible for all bullion delivered to him, until the same is returned to the superintendent and the proper vouchers obtained.

Duties of engravers.

Ibid., s. 8, p. 425.

SEC. 3510. The engraver shall prepare from the original dies already authorized all the working-dies required for use in the coinage of the several mints, and, when new coins or devices are authorized, shall, if required by the Director of the Mint, prepare the devices, models, molds, and matrices, or original dies, for the same; but the Director of the Mint shall nevertheless have power, with the approval of the Secretary of the Treasury, to engage temporarily for this purpose the services of one or more artists, distinguished in their respective departments of art, who shall be paid for such service from the contingent appropriation for the Mint at Philadelphia.

Gold coins of the United States and their weight.

Ibid., s. 14, p. 426.

SEC. 3511. The gold coins of the United States shall be a one-dollar piece, which, at the standard weight of twenty-five and eight-tenths grains, shall be the unit of value; a quarter-eagle, or two and a half dollar piece; a three-dollar piece; a half-eagle, or five-dollar piece; an eagle, or ten-dollar piece; and a double-eagle, or twenty-dollar piece. And the standard weight of the gold dollar shall be twenty-five and eight-tenths grains; of the quarter-eagle, or two and a half dollar piece, sixty-four and a half grains; of the three-dollar piece, seventy-seven and four-tenths grains; of the half-eagle, or five-dollar piece, one hundred and twenty-nine grains; of the eagle, or ten-dollar piece, two hundred and fifty-eight grains; of the double-eagle, or twenty-dollar piece, five hundred and sixteen grains.

Recoinage of gold coins.

Ibid., s. 14, p. 426.

SEC. 3512. Any gold coins in the Treasury of the United States, when reduced in weight by natural abrasion more than one-half of one per centum below the standard weight prescribed by law, shall be recoinced.

Silver coins and their weight.

Ibid., s. 15, p. 427.

3 *Mar.*, 1875, c. 143, v. 18, p. 478.

17 *April*, 1876, c. 63, s. 2, v. 19, p. 33.

22 *July*, 1876, *J.*

R. No. 17, s. 2, v. 19, p. 215.

SEC. 3513. The silver coins of the United States shall be a trade-dollar, a half-dollar, or fifty-cent piece, a quarter-dollar, or twenty-five-cent piece, a dime, or ten-cent piece; and the weight of the trade-dollar shall be four hundred and twenty grains troy; the weight of the half-dollar shall be twelve grams and one-half of a gram; the quarter-dollar and the dime shall be, respectively, one-half and one-fifth of the weight of said half-dollar.

Standard for gold and silver coins.

12 *Feb.*, 1873, c. 131, s. 13, v. 17, p. 426.

SEC. 3514. The standard for both gold and silver coins of the United States shall be such that of one thousand parts by weight nine hundred shall be of pure metal and one hundred of alloy. The alloy of the silver coins shall be of copper. The alloy of the gold coins shall be of copper, or of copper and silver; but the silver shall in no case exceed one-tenth of the whole alloy. [See § 5460.]

Minor coins; their weight and alloy.

Ibid., s. 16, p. 427.

SEC. 3515. The minor coins of the United States shall be a five-cent piece, a three-cent piece, and a one-cent piece. The alloy for the five and three cent pieces shall be of copper and nickel, to be composed of three-fourths copper and one-fourth nickel. The alloy of the one-cent piece shall be ninety-five per centum of copper and five per centum of tin and zinc, in such proportions as shall be determined by the Director of the Mint. The weight of the piece of five cents shall be seventy-seven and sixteen-hundredths grains troy; of the three-cent piece, thirty grains; and of the one-cent piece, forty-eight grains.

Issue of other coins prohibited.

Ibid., s. 17, p. 427.

29 *Jan.*, 1874, c. 19, v. 18, p. 6.

SEC. 3516. No coins, either of gold, silver, or minor coinage, shall hereafter be issued from the Mint other than those of the denominations, standards, and weights set forth in this Title. [See §§ 5457-5462.]

SEC. 3517. Upon the coins there shall be the following devices and legends: Upon one side there shall be an impression emblematic of liberty, with an inscription of the word "Liberty" and the year of the coinage, and upon the reverse shall be the figure or representation of an eagle, with the inscriptions "United States of America" and "E Pluribus Unum," and a designation of the value of the coin; but on the gold dollar and three-dollar piece, the dime, five, three, and one-cent piece, the figure of the eagle shall be omitted; and on the reverse of the silver trade-dollar the weight and the fineness of the coin shall be inscribed.

Inscriptions upon coins.

12 Feb., 1873, c. 131, s. 18, v. 17, p. 427.

SEC. 3518. At the option of the owner gold or silver may be cast into bars of fine metal, or of standard fineness, or unparted, as he may prefer, with a stamp upon the same designating the weight and fineness, and with such devices impressed thereon as may be deemed expedient to prevent fraudulent imitation, and no such bars shall be issued of a less weight than five ounces.

Gold and silver bars.

Ibid., s. 19, p. 427.

SEC. 3519. Any owner of gold bullion may deposit the same at any mint, to be formed into coin or bars for his benefit. It shall be lawful, however, to refuse any deposit of less value than one hundred dollars, or any bullion so base as to be unsuitable for the operations of the Mint. In cases where gold and silver are combined, if either metal be in such small proportion that it cannot be separated advantageously, no allowance shall be made to the depositor for its value.

Coining gold bullion; when deposits may be refused.

Ibid., s. 20, p. 427.

SEC. 3520. Any owner of silver bullion may deposit the same at any mint, to be formed into bars, or into dollars of the weight of four hundred and twenty grains troy, designated in this Title as trade-dollars, and no deposit of silver for other coinage shall be received. Silver bullion contained in gold deposits, and separated therefrom, may, however, be paid for in silver coin, at such valuation as may be, from time to time, established by the Director of the Mint.

Silver bullion may be received for forming into bars or trade-dollars.

Ibid., s. 21, p. 427.

SEC. 3521. When bullion is deposited in any of the mints, it shall be weighed by the superintendent, and, when practicable, in the presence of the depositor, to whom a receipt shall be given, which shall state the description and weight of the bullion. When, however, the bullion is in such a state as to require melting, or the removal of base metals, before its value can be ascertained, the weight, after such operation, shall be considered as the true weight of the bullion deposited. The fitness of the bullion to be received shall be determined by the assayer, and the mode of melting by the melter and refiner.

Weighing bullion and ascertaining its value.

Ibid., s. 22, p. 428.

SEC. 3522. From every parcel of bullion deposited for coinage or bars, the superintendent shall deliver to the assayer a sufficient portion for the purpose of being assayed. The bullion remaining from the operations of the assay shall be returned to the superintendent by the assayer.

Assay of bullion.

Ibid., s. 23, p. 428.

SEC. 3523. The assayer shall report to the superintendent the quality or fineness of the bullion assayed by him, and such information as will enable him to compute the amount of the charges hereinafter provided for, to be made to the depositor.

Assayer to report to superintendent quality of bullion assayed.

Ibid., s. 24, p. 428.

SEC. 3524. The charge for converting standard gold bullion into coin shall be one-fifth of one per centum. The charges for converting standard silver into trade-dollars for melting and refining when bullion is below standard, for toughening when metals are contained in it which render it unfit for coinage, for copper used for alloy when the bullion is above standard, for separating the gold and silver when these metals exist together in the bullion, and for the preparation of bars, shall be fixed, from time to time, by the Director, with the concurrence of the Secretary of the Treasury, so as to equal but not exceed, in their judgment, the actual average cost to each mint and assay-office of the material, labor, wastage, and use of machinery employed in each of the cases aforementioned.

Charges for converting bullion, &c., into coin.

Ibid., s. 25, p. 428.

Repeated in part by stat. 14 Jan., 1875, c. 15, v. 18, p. 296.

The act of January 14, 1875, c. 15, s. 2, v. 18, p. 296, repealed the charge of one-fifth of one per centum for converting standard gold bullion into coin.

Assayer to verify calculations of the value of deposits and countersign certificate.

12 Feb., 1873, c. 131, s. 26, v. 17, p. 428.

Purchase of bullion for silver coinage; the silver-profit fund.

Ibid., s. 27, p. 428.
22 June, 1874, c. 419, v. 18, p. 202.

Paying out silver coins for gold coin authorized.

12 Feb., 1873, c. 131, s. 28, v. 17, p. 428.

22 June, 1874, c. 419, v. 18, p. 202.

Purchase of metal for minor coinage; the minor-coinage profit fund.

12 Feb., 1873, c. 131, s. 29, v. 17, p. 429.

Delivery of minor coins; redemption.

Ibid., s. 30, p. 429.

SEC. 3525. The assayer shall verify all calculations made by the superintendent of the value of deposits, and, if satisfied of the correctness thereof, shall countersign the certificate required to be given by the superintendent to the depositor.

SEC. 3526. In order to procure bullion for the silver coinage authorized by this Title, the superintendents, with the approval of the Director of the Mint, as to price, terms, and quantity, shall purchase such bullion with the bullion-fund. The gain arising from the coinage of such silver bullion into coin of a nominal value exceeding the cost thereof shall be credited to a special fund denominated the silver-profit fund. This fund shall be charged with the wastage incurred in the silver coinage, and with the expense of distributing such silver coins as herein-after provided. The balance to the credit of this fund shall be from time to time, and at least twice a year, paid into the Treasury of the United States.

SEC. 3527. Silver coins other than the trade-dollar shall be paid out at the several mints, and at the assay-office in New York City, in exchange for gold coins at par, in sums not less than one hundred dollars. It shall be lawful, also, to transmit parcels of the same, from time to time, to the assistant treasurers, depositaries, and other officers of the United States, under general regulations proposed by the Director of the Mint, and approved by the Secretary of the Treasury. Nothing herein contained shall, however, prevent the payment of silver coins, at their nominal value, for silver parted from gold, as provided in this Title, or for change less than one dollar in settlement for gold deposits. But for two years after the twelfth day of February, eighteen hundred and seventy-three, silver coins shall be paid at the Mint in Philadelphia and the assay-office in New York City, for silver bullion purchased for coinage, under such regulations as may be prescribed by the Director of the Mint and approved by the Secretary of the Treasury.

SEC. 3528. For the purchase of metal for the minor coinage authorized by this Title, a sum not exceeding fifty thousand dollars in lawful money of the United States shall be transferred by the Secretary of the Treasury to the credit of the superintendent of the Mint at Philadelphia, at which establishment only, until otherwise provided by law, such coinage shall be carried on. The superintendent, with the approval of the Director of the Mint as to price, terms, and quantity, shall purchase the metal required for such coinage by public advertisement, and the lowest and best bid shall be accepted, the fineness of the metals to be determined on the Mint assay. The gain arising from the coinage of such metals into coin of a nominal value, exceeding the cost thereof, shall be credited to the special fund denominated the minor-coinage profit fund; and this fund shall be charged with the wastage incurred in such coinage, and with the cost of distributing said coins as hereinafter provided. The balance remaining to the credit of this fund, and any balance of profits accrued from minor coinage under former acts, shall be, from time to time, and at least twice a year, covered into the Treasury.

SEC. 3529. The minor coins authorized by this Title may, at the discretion of the Director of the Mint, be delivered in any of the principal cities and towns of the United States, at the cost of the Mint, for transportation, and shall be exchangeable at par at the Mint in Philadelphia, at the discretion of the superintendent, for any other coins of copper, bronze, or copper-nickel heretofore authorized by law. It shall be lawful for the Treasurer and the several assistant treasurers and depositaries of the United States to redeem, in lawful money, under such rules as may be prescribed by the Secretary of the Treasury, all copper, bronze, and copper-nickel coins authorized by law when presented in sums of not less than twenty dollars. Whenever, under this authority, these coins are presented for redemption in such quantity as to show the amount outstanding to be redundant, the Secretary of the Treasury is authorized and required to direct that such coinage shall cease until otherwise ordered by him.

SEC. 3530. Parcels of bullion shall be, from time to time, transferred by the superintendent to the melter and refiner. A careful record of these transfers, noting the weight and character of the bullion, shall be kept, and vouchers shall be taken for the delivery of the same, duly receipted by the melter and refiner. The bullion thus placed in the hands of the melter and refiner shall be subjected to the several processes which may be necessary to form it into ingots of the legal standard, and of a quality suitable for coinage.

Transfer of bullion for formation into ingots.

Ibid., s. 31, p. 429.

SEC. 3531. The ingots so prepared shall be assayed. If they prove to be within the limits allowed for deviation from the standard, the assayer shall certify the fact to the superintendent, who shall thereupon receipt for the same, and transfer them to the coiner.

Ingots to be assayed, and receipted for.

Ibid., s. 32, p. 429.

SEC. 3532. The superintendent shall, from time to time, deliver to the coiner ingots for the purpose of coinage. A careful record of these transfers, noting the weight and character of the bullion, shall be kept, and vouchers shall be taken for the delivery of the same, duly receipted by the coiner. The ingots thus placed in the hands of the coiner shall be subjected to the several processes necessary to make from them coins in all respects conformable to law.

Delivery of ingots to coiner for coinage.

Ibid., s. 35, p. 429.

SEC. 3533. No ingots shall be used for coinage which differ from the legal standard more than the following proportions, namely: In gold ingots, one-thousandth; in silver ingots, three-thousandths; in minor-coinage alloys, twenty-five thousandths, in the proportion of nickel.

Standard of ingots used for coinage.

Ibid., s. 33, p. 429.

SEC. 3534. The melter and refiner shall prepare all bars required for the payment of deposits; but the fineness thereof shall be ascertained and stamped thereon by the assayer. The melter and refiner shall deliver such bars to the superintendent, who shall receipt for the same.

Preparation and stamping of bars for payment of deposits.

Ibid., s. 34, p. 429.

SEC. 3535. In adjusting the weights of the gold coins, the following deviations shall not be exceeded in any single piece: In the double-eagle and the eagle, one-half of a grain; in the half-eagle, the three-dollar piece, the quarter-eagle, and the one-dollar piece, one-fourth of a grain. And in weighing a number of pieces together, when delivered by the coiner to the superintendent, and by the superintendent to the depositor, the deviation from the standard weight shall not exceed one hundredth of an ounce in five thousand dollars in double-eagles, eagles, half-eagles, or quarter-eagles, in one thousand three-dollar pieces, and in one thousand one-dollar pieces.

Deviations allowed in adjusting weights of gold coins.

Ibid., s. 36, p. 430.

SEC. 3536. In adjusting the weight of the silver coins the following deviations shall not be exceeded in any single piece: In the dollar, the half and quarter dollar, and in the dime, one and one-half grains. And in weighing [a] large number of pieces together, when delivered by the coiner to the superintendent, and by the superintendent to the depositor, the deviations from the standard weight shall not exceed two-hundredths of an ounce in one thousand dollars, half-dollars, or quarter-dollars, and one-hundredth of an ounce in one thousand dimes.

Of silver coins.

Ibid., s. 37, p. 430.
27 Feb., 1877, c. 69, v. 19, p. 249.

SEC. 3537. In adjusting the weight of the minor coins provided by this Title, there shall be no greater deviation allowed than three grains for the five-cent piece and two grains for the three and one-cent pieces.

Of minor coins.

12 Feb., 1873, c. 131, s. 38, v. 17, p. 430.

SEC. 3538. The coiner shall, from time to time, as coins are prepared, deliver them to the superintendent, who shall receipt for the same, and who shall keep a careful record of their kind, number, and actual weight. In receiving coins it shall be the duty of the superintendent to ascertain, by the trial of a number of single pieces separately, whether the coins of that delivery are within the legal limits of the standard weight; and if his trials for this purpose shall not prove satisfactory, he shall cause all the coins of such delivery to be weighed separately, and such as are not of legal weight shall be defaced and delivered to the melter and refiner as standard bullion, to be again formed into ingots and recoined; or the whole delivery may, if more convenient, be remelted.

Delivery of coins by coiner and trial of pieces.

Ibid., s. 39, p. 430.

SEC. 3539. At every delivery of coins made by the coiner to a superintendent, it shall be the duty of such superintendent, in the presence of the assayer, to take indiscriminately a certain number of pieces of each

Trial-pieces to be sealed up and transmitted quar-

terly to the Mint at Philadelphia.

Ibid., s. 40, p. 430.

Disposals of clippings, &c.

Ibid., s. 41, p. 430.

Yearly settlement of accounts of coiner, melter and refiner.

Ibid., s. 42, p. 431.

Allowance for wastage.

Ibid., s. 43, p. 431.

Statement of balance-sheet to be forwarded by superintendent to Director of Mints.

Ibid., s. 44, p. 431.

Delivery of coin or bars to depositor.

Ibid., s. 45, p. 431.

variety for the annual trial of coins, the number for gold coins being not less than one piece for each one thousand pieces or any fractional part of one thousand pieces delivered; and for silver coins one piece for each two thousand pieces or any fractional part of two thousand pieces delivered. The pieces so taken shall be carefully sealed up in an envelope, properly labeled, stating the date of the delivery, the number and denomination of the pieces inclosed, and the amount of the delivery from which they were taken. These sealed parcels containing the reserved pieces shall be deposited in a pyx, designated for the purpose at each mint, which shall be kept under the joint care of the superintendent and assayer, and be so secured that neither can have access to its contents without the presence of the other, and the reserved pieces in their sealed envelopes from the coinage of each mint shall be transmitted quarterly to the Mint at Philadelphia. A record shall also be kept at the same time of the number and denomination of the pieces so taken for the annual trial of coins, and of the number and denomination of the pieces represented by them and so delivered, a copy of which record shall be transmitted quarterly to the Director of the Mint. Other pieces may, at any time, be taken for such tests as the Director of the Mint shall prescribe.

SEC. 3540. The coiner shall, from time to time, deliver to the superintendent the clippings and other portions of bullion remaining after the process of coining; and the superintendent shall receipt for the same and keep a careful record of their weight and character.

SEC. 3541. The superintendent shall debit the coiner with the amount in weight of standard metal of all the bullion placed in his hands, and credit him with the amount in weight of all the coins, clippings, and other bullion returned by him to the superintendent. Once at least in every year, and at such time as the Director of the Mint shall appoint, there shall be an accurate and full settlement of the accounts of the coiner, and the melter and refiner, at which time those officers shall deliver up to the superintendent all the coins, clippings, and other bullion in their possession, respectively, accompanied by statements of all the bullion delivered to them since the last annual settlement, and all the bullion returned by them during the same period, including the amount returned for the purpose of settlement.

SEC. 3542. When all the coins, clippings, and other bullion have been delivered to the superintendent, it shall be his duty to examine the accounts and statements rendered by the coiner and the melter and refiner. The difference between the amount charged, and credited to each officer shall be allowed as necessary wastage, if the superintendent shall be satisfied that there has been a bona-fide waste of the precious metals, and if the amount shall not exceed, in the case of the melter and refiner, one-thousandth of the whole amount of gold, and one and one-half thousandths of the whole amount of silver delivered to him since the last annual settlement, and in the case of the coiner, one-thousandth of the whole amount of silver, and one-half thousandth of the whole amount of gold that has been delivered to him by the superintendent. All copper used in the alloy of gold and silver bullion shall be separately charged to the melter and refiner, and accounted for by him.

SEC. 3543. It shall also be the duty of the superintendent to forward a correct statement of his balance-sheet, at the close of such settlement, to the Director of the Mint; who shall compare the total amount of gold and silver bullion and coin on hand with the total liabilities of the mint. At the same time a statement of the ordinary expense account, and the moneys therein, shall also be made by the superintendent.

SEC. 3544. When the coins or bars which are the equivalent to any deposit of bullion are ready for delivery, they shall be paid to the depositor, or his order, by the superintendent; and the payments shall be made, if demanded, in the order in which the bullion shall have been brought to the mint. In cases, however, where there is delay in manipulating a refractory deposit, or for any other unavoidable cause, the payment of subsequent deposits, the value of which is known, shall not be delayed thereby. In the denominations of coin delivered, the superin-

tendent shall comply with the wishes of the depositor, except when impracticable or inconvenient to do so.

SEC. 3545. For the purpose of enabling the mints and the assay-office in New York to make returns to depositors with as little delay as possible, it shall be the duty of the Secretary of the Treasury to keep in such mints and assay-office, when the state of the Treasury will admit thereof, such an amount of public money, or bullion procured for the purpose, as he shall judge convenient and necessary, out of which those who bring bullion to the said mints and assay-office may be paid the value thereof, in coin or bars, as soon as practicable after the value has been ascertained. On payment thereof being made, the bullion so deposited shall become the property of the United States. The Secretary of the Treasury may, however, at any time withdraw the fund, or any portion thereof.

Payment in money to depositors when value ascertained.

Ibid., s. 47, p. 431
22 June, 1874, c. 419, v. 18, p. 202.

SEC. 3546. Unparted bullion may be exchanged at any of the mints for fine bars, on such terms and conditions as may be prescribed by the Director of the Mint, with the approval of the Secretary of the Treasury. The fineness, weight, and value of the bullion received and given in exchange shall in all cases be determined by the mint assay. The charge to the depositor for refining or parting shall not exceed that allowed and deducted for the same operation in the exchange of unrefined for refined bullion.

Exchange of unparted bullion for fine bars.

12 Feb., 1873, c. 131, s. 46, v. 17, p. 431.

SEC. 3547. To secure a due conformity in the gold and silver coins to their respective standards of fineness and weight, the judge of the district court for the eastern district of Pennsylvania, the Comptroller of the Currency, the assayer of the assay-office at New York, and such other persons as the President shall, from time to time, designate, shall meet as assay-commissioners, at the Mint in Philadelphia, to examine and test, in the presence of the Director of the Mint, the fineness and weight of the coins reserved by the several mints for this purpose, on the second Wednesday in February, annually, and may continue their meetings by adjournment, if necessary. If a majority of the commissioners fail to attend at any time appointed for their meeting, the Director of the Mint shall call a meeting of the commissioners at such other time as he may deem convenient. If it appears by such examination and test that these coins do not differ from the standard fineness and weight by a greater quantity than is allowed by law, the trial shall be considered and reported as satisfactory. If, however, any greater deviation from the legal standard or weight appears, this fact shall be certified to the President; and if, on a view of the circumstances of the case, he shall so decide, the officers implicated in the error shall be thenceforward disqualified from holding their respective offices.

Appointment and meeting of assay-commissioners.

Ibid., s. 48, p. 432.

SEC. 3548. For the purpose of securing a due conformity in weight of the coins of the United States to the provisions of this Title, the brass troy-pound weight procured by the minister of the United States at London, in the year eighteen hundred and twenty-seven, for the use of the Mint and now in the custody of the Mint at Philadelphia, shall be the standard troy pound of the Mint of the United States, conformably to which the coinage thereof shall be regulated.

Standard troy pound for the regulation of coinage.

Ibid., s. 49, p. 432.

SEC. 3549. It shall be the duty of the Director of the Mint to procure for each mint and assay-office, to be kept safely thereat, a series of standard weights corresponding to the standard troy pound of the Mint of the United States, consisting of a one-pound weight and the requisite subdivisions and multiples thereof, from the hundredth part of a grain to twenty-five pounds. The troy weights ordinarily employed in the transactions of such mints and assay-offices shall be regulated according to the above standards at least once in every year, under the inspection of the superintendent and assayer; and the accuracy of those used at the Mint at Philadelphia shall be tested annually, in the presence of the assay-commissioners, at the time of the annual examination and test of coins.

Standard weights for mints and assay offices.

Ibid., s. 50, p. 432.

SEC. 3550. The obverse working-dies at each mint shall, at the end of each calendar year, be defaced and destroyed by the coiner in the presence of the superintendent and assayer.

Yearly destruction of obverse working-dies.

Ibid., s. 51, p. 432.

National and other medals may be struck at Mint at Philadelphia.

Ibid., s. 52, p. 432.
16 June, 1874, c. 288, v. 18, p. 76.

Money arising from charges and deductions to be covered into Treasury.

12 Feb., 1873, c. 131, s. 53, v. 17, p. 432.

Business of assay-office at New York.

Ibid., s. 54, p. 433.

Appointment of officers at New York.

Ibid.

Duties, &c., of officers at New York.

Ibid., s. 55, p. 433.

Salaries of officers at New York.

Ibid. s., 56, p. 433.

Appointment and salaries of assistants and employes at New York.

Ibid.

Business of mint at Denver and of assay-offices at Boise City and Charlotte.

Ibid., s. 57.

Appointment of officer at Denver, Boise City, and Charlotte.

Ibid., s. 57, p. 433.

Powers and duties of assayers at assay-offices.

SEC. 3551. Dies of a national character may be executed by the engraver, and national and other medals struck by the coiner of the Mint at Philadelphia, under such regulations as the superintendent, with the approval of the Director of the Mint, may prescribe. Such work shall not, however, interfere with the regular coinage operations, and no private medal dies shall be prepared at any mint, or the machinery or apparatus thereof be used for that purpose.

SEC. 3552. The moneys arising from all charges and deductions on and from gold and silver bullion and the manufacture of medals, and from all other sources, except as provided by this Title, shall, from time to time, be covered into the Treasury, and no part of such deductions or medal charges, or profit on silver or minor coinage, shall be expended in salaries or wages. All expenditures of the mints and assay-offices, not herein otherwise provided for, shall be paid from appropriations made by law on estimates furnished by the Secretary of the Treasury.

SEC. 3553. The business of the United States assay-office at New York shall be in all respects similar to that of the mints, except that bars only and not coin, shall be manufactured therein; and no metals shall be purchased for minor coinage. All bullion intended by the depositor to be converted into coins, of the United States, and silver bullion purchased for coinage, when assayed, parted, and refined, and its net value certified, shall be transferred to the Mint at Philadelphia, under such directions as shall be made by the Secretary of the Treasury, at the expense of the contingent fund of the Mint, and shall be there coined, and the proceeds returned to the assay-office. And the Secretary of the Treasury is hereby authorized to make the necessary arrangements for the adjustment of the accounts upon such transfers between the respective offices.

SEC. 3554. The officers of the assay-office at New York shall be a superintendent, an assayer, and a melter and refiner; each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

SEC. 3555. The duties of the superintendent, the assayer, and the melter and refiner of the assay-office at New York shall correspond to those of superintendents, assayers, and melters and refiners of mints; and all the provisions of this Title relating to mints and their officers, the duties and responsibilities of such officers, and others employed therein, the oaths to be taken, and the bonds and sureties to be given by them, shall extend, as far as the same may be applicable, to the assay-office at New York, and to its officers, clerks, and employes.

SEC. 3556. The officers of the assay-office at New York shall be entitled to the following salaries:

First. The superintendent, to four thousand five hundred dollars a year.

Second. The assayer, to three thousand dollars a year.

Third. The melter and refiner, to three thousand dollars.

SEC. 3557. The appointment and compensation of assistants, clerks, and workmen in the assay-office at New York shall be regulated in the same manner as is prescribed in regard to mints.

SEC. 3558. The business of the mint of the United States at Denver, while conducted as an assay-office, that of the United States assay-office at Boise City, and that of any other assay-offices hereafter established, shall be confined to the receipt of gold and silver bullion, for melting and assaying, to be returned to depositors of the same, in bars, with the weight and fineness stamped thereon.

SEC. 3559. The officers of the assay-offices embraced by the preceding section shall be, when their respective services are required, an assayer and a melter; each of whom shall be appointed by the President, by and with the advice and consent of the Senate. Their salaries shall not exceed two thousand five hundred dollars a year each.

SEC. 3560. The assayer at each of the assay-offices embraced by section thirty-five hundred and fifty-eight, shall have general charge of the office; and may employ, under the direction of the Director of the Mint,

such, clerks, workmen, and laborers as may be authorized therefor by law; and shall discharge the duties of disbursing agent for the expenses of the office under his charge. The salaries paid to clerks shall not exceed one thousand eight hundred dollars a year each. Workmen and laborers shall receive such wages as are customary according to their respective stations and occupations.

SEC. 3561. Each officer and clerk appointed at either of the assay-offices embraced by section thirty-five hundred and fifty-eight shall, before entering upon the duties of his office, take an oath pursuant to the provisions of Title XIX, "PROVISIONS [applying] [APPLICABLE] TO SEVERAL CLASSES OF OFFICERS," and shall give a bond to the United States, with one or more sureties, satisfactory to the Director of the Mint or to one of the judges of the supreme court of the State or Territory in which the office to which he is appointed is located, conditioned for the faithful performance of his duties. [See §§ 1756, 1757.]

SEC. 3562. All provisions of law for the regulation of mints, the government of officers and persons employed therein, and for the punishment of all offenses connected with mints or coinage, shall extend to all assay-offices, as far as applicable. [See § 5460.]

SEC. 3563. The money of account of the United States shall be expressed in dollars or units, dimes or tenths, cents, or hundredths, and mills or thousandths, a dime being the tenth part of a dollar, a cent the hundredth part of a dollar, a mill the thousandth part of a dollar; and all accounts in the public offices and all proceedings in the courts shall be kept and had in conformity to this regulation.

SEC. 3564. The value of foreign coin as expressed in the money of account of the United States shall be that of the pure metal of such coin of standard value; and the values of the standard coins in circulation of the various nations of the world shall be estimated annually by the Director of the Mint, and be proclaimed on the first day of January by the Secretary of the Treasury.

The Collector v. Richards, 23 Wall., 246.

SEC. 3565. In all payments by or to the Treasury, whether made here or in foreign countries, where it becomes necessary to compute the value of the sovereign or pound sterling, it shall be deemed equal to four dollars eighty-six cents and six and one-half mills, and the same rule shall be applied in appraising merchandise imported where the value is, by the invoice, in sovereigns or pounds sterling, and in the construction of contracts payable in sovereigns or pounds sterling; and this valuation shall be the par of exchange between Great Britain and the United States; and all contracts made after the first day of January, eighteen hundred and seventy-four, based on an assumed par of exchange with Great Britain of fifty-four pence to the dollar, or four dollars forty-four and four-ninths cents to the sovereign or pound sterling, shall be null and void.

SEC. 3566. All foreign gold and silver coins received in payment for moneys due to the United States shall, before being issued in circulation, be coined anew.

s. 3, v. 1, p. 301. 21 Feb., 1857, c. 56, s. 2, v. 11, p. 163.

SEC. 3567. The pieces commonly known as the quarter, eighth, and sixteenth of the Spanish pillar-dollar, and of the Mexican dollar, shall be receivable at the Treasury of the United States, and its several offices, and at the several post-offices and land-offices, at the rates of valuation following: the fourth of a dollar, or piece of two reals, at twenty cents; the eighth of a dollar, or piece of one real, at ten cents; and the sixteenth of a dollar, or half-real, at five cents.

SEC. 3568. The Director of the Mint, with the approval of the Secretary of the Treasury, may prescribe such regulations as are necessary and proper, to secure the transmission of the coins mentioned in the preceding section to the Mint for recoinage, and the [turn] [return] or distribution of the proceeds thereof, when deemed expedient, and may prescribe such forms of account as are appropriate and applicable to the circum-

Ibid., ss. 57, 58, p. 433.

Compensation of employes.

Bond and oath of officers and clerks.

Ibid., s. 58, p. 433.

18 Feb., 1875, c.

80, v. 18, p. 319.

27 Feb., 1877, c.

69, v. 19, p. 249.

Laws relating to mints extended to assay-offices.

12 Feb., 1873, c.

131, s. 60, v. 17, p. 434.

Decimal system established.

2 April, 1792, c.

16, s. 20, v. 1, p. 250.

Value of foreign coins, how ascertained.

3 Mar., 1873, c.

263, s. 1, v. 17, p.

602.

Value of the sovereign or pound sterling.

3 Mar., 1873, c.

263, s. 2, v. 17, p.

603.

Recoinage of foreign coins.

9 Feb., 1793, c. 5,

s. 2, v. 11, p. 163.

Spanish and Mexican coins.

21 Feb., 1857, c.

56, s. 1, v. 11, p. 163.

Their transmission for recoinage.

21 Feb., 1857, c.

56, s. 2, v. 11, p. 163.

27 Feb., 1877, c.

69, v. 19, p. 249.

stances. The expenses incident to such transmission or distribution, and of recoinage, shall be charged against the account of silver profit and loss, and the net profits, if any, shall be paid, from time to time, into the Treasury.

Use of the metric system authorized.

28 July, 1866, c. 301, s. 1, v. 14, p. 339.

Authorized tables of weights and measures.

28 July, 1866, c. 301, s. 2, v. 14, pp. 339, 340.

SEC. 3569. It shall be lawful throughout the United States of America to employ the weights and measures of the metric system; and no contract or dealing, or pleading in any court, shall be deemed invalid or liable to objection because the weights or measures expressed or referred to therein are weights or measures of the metric system.

SEC. 3570. The tables in the schedule hereto annexed shall be recognized in the construction of contracts, and in all legal proceedings, as establishing, in terms of the weights and measures now in use in the United States, the equivalents of the weights and measures expressed therein in terms of the metric system; and the tables may lawfully be used for computing, determining, and expressing in customary weights and measures the weights and measures of the metric system.

MEASURES OF LENGTH.

Metric denominations and values.		Equivalents in denominations in use.
Myriameter	10,000 meters.	6.2137 miles.
Kilometer	1,000 meters.	0.62137 miles, or 3,280 feet and 10 inches.
Hectometer	100 meters.	328 feet and 1 inch.
Dekameter	10 meters.	39.37 inches.
Meter	1 meter.	39.37 inches.
Decimeter	$\frac{1}{10}$ of a meter.	3.937 inches.
Centimeter	$\frac{1}{100}$ of a meter.	0.3937 inches.
Millimeter	$\frac{1}{1000}$ of a meter.	0.0394 inches.

MEASURES OF CAPACITY.

Metric denominations and values.			Equivalents in denominations in use.	
Names.	Num. of liters.	Cubic measure.	Dry measure.	Liquor or wine measure.
Kiloliter, or stere.	1,000	1 cubic meter	1.308 cub. yards...	264.17 gallons.
Hectoliter ..	100	$\frac{1}{10}$ of a cubic meter...	2 bushels and 3.35 pecks	26.417 gallons.
Dekaliter...	10	10 cubic decimeters..	9.08 quarts	2.6417 gallons.
Liter	1	1 cubic decimeter...	0.908 quarts	1.0567 quarts.
Deciliter ...	$\frac{1}{10}$	$\frac{1}{10}$ of a cub. decimeter.	6.1022 cub. inch...	0.845 gills.
Centiliter...	$\frac{1}{100}$	10 cubic centimeters.	0.6102 cub. inch...	0.338 fluid ounces.
Milliliter ...	$\frac{1}{1000}$	1 cubic centimeter ..	0.061 cub. inch....	0.27 fluid drams.

MEASURES OF SURFACE.

Metric denominations and values.		Equivalents in denominations in use.
Hectare	10,000 square meters.	2.471 acres.
Are	100 square meters.	119.6 square yards.
Centare	1 square meter.	1550 square inches.

TITLE XXXVII.—COINAGE, WEIGHTS, AND MEASURES.

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WEIGHTS.

Metric denominations and values.			Equivalents in denominations in use.
Names.	Number of grams.	Weight of what quantity of water at maximum density.	Avoirdupois weight.
Millier or tonneau	1,000,000	1 cubic meter	2204.6 pounds.
Quintal	100,000	1 hectoliter	220.46 pounds.
Myriagram	10,000	10 liters	22.046 pounds.
Kilogram or kilo.....	1,000	1 liter	2.2046 pounds.
Hectogram	100	1 deciliter	3.5274 ounces.
Dekagram	10	10 cubic centimeters	0.3527 ounces.
Gram	1	1 cubic centimeter	15.432 grains.
Decigram	$\frac{1}{10}$	$\frac{1}{10}$ of a cubic centimeter	1.5432 grains.
Centigram	$\frac{1}{100}$	10 cubic millimeters	0.1543 grains.
Milligram	$\frac{1}{1000}$	1 cubic millimeter.....	0.0154 grains.

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TITLE XXXVIII. THE CURRENCY.

Sec.

3571. United States notes.
3572. Amount of fractional currency authorized.
3573. No issue less than ten cents.
3574. Form and redemption of fractional notes.
3575. Preparation of fractional and other notes.
3576. Portraits of living persons not to be placed on bonds or notes.

Sec.

3577. Engraving and printing notes.
3578. Expenses of issuing notes.
3579. Reissue of United States notes.
3580. Replacing mutilated notes.
3581. Destruction of notes.
3582. Reduction of the currency suspended.
3583. Restriction on notes less than one dollar.

United States notes.

25 Feb., 1862, c. 33, s. 1, v. 12, p. 345.
11 July, 1862, c. 142, s. 1, v. 12, p. 532.
3 Mar., 1875, c. 130, v. 18, p. 373.

Amount of fractional currency authorized.

30 June, 1864, c. 172, s. 5, v. 13, p. 220.
1876, c. 63, s. 2, v. 19, p. 33.

No issue less than ten cents.

16 Mar., 1866, c. 81, s. 3, v. 14, p. 47.
14 Jan., 1875, c. 15, v. 18, p. 296.

Form and redemption of fractional notes.

3 Mar., 1863, c. 73, s. 4, v. 12, p. 711.
30 June, 1864, c. 172, s. 5, v. 13, p. 220.
14 Jan., 1875, c. 15, v. 18, p. 296.

Preparation of notes.

3 Mar., 1863, c. 73, s. 4, v. 12, p. 711.
30 June, 1864, c. 172, s. 5, v. 13, p. 220.
14 Jan., 1875, c. 15, v. 18, p. 296.—Cook v. U. S., 12 Blatch., 43.

Portraits of living persons not to be placed on bonds or notes.

7 April, 1866, c. 28, s. 12, v. 14, p. 25.

Engraving and printing notes.

11 July, 1862, c. 142, s. 2, v. 12, p. 532.
14 Jan., 1875, c. 15, v. 18, p. 39.

SEC. 3571. United States notes shall be of such denominations, not less than one dollar, as the Secretary of the Treasury may prescribe, shall not bear interest, shall be payable to bearer, and shall be in such form as the Secretary may deem best. [See §§ 5413, 5414, 5430-5434.]

17 Jan., 1863, Res. 9, v. 12, p. 822. 3 Mar., 1863, c. 73, s. 3, v. 12, p. 710.

SEC. 3572. The whole amount of notes or stamps for the fractions of a dollar, issued as currency, shall not, at any time, exceed fifty millions of dollars.

SEC. 3573. No issue of fractional notes of the United States shall be of a less denomination than ten cents; and all issues of a less denomination shall, when paid into the Treasury or any designated depository of the United States, or redeemed or exchanged as now provided by law, be retained and canceled.

SEC. 3574. The notes of the fractional currency shall be in such form, with such inscriptions, and with such safeguards against counterfeiting as the Secretary of the Treasury may deem best. They shall be exchangeable by the assistant treasurers and designated depositaries for United States notes in sums of not less than three dollars; and shall be receivable for postage and revenue stamps, and for all dues to the United States, except customs, in sums not over five dollars, and shall be redeemed on presentation at the Treasury of the United States in such sums and under such regulations as the Secretary of the Treasury shall prescribe.

SEC. 3575. The Secretary of the Treasury may provide for the engraving and preparation, and for the issue of fractional and other notes, and shall make such regulations for the redemption of such notes when mutilated or defaced, and for the receipt of fractional notes in payment of debts to the United States, except for customs, in such sums, not over five dollars, as may appear to him expedient.

SEC. 3576. No portrait shall be placed upon any of the bonds, securities, notes, fractional or postal currency of the United States, while the original of such portrait is living.

SEC. 3577. The Secretary of the Treasury may cause notes to be engraved, printed, and executed, at the Department of the Treasury in Washington, and under his direction, if he deems it inexpedient to procure them to be engraved and printed by contract; and he may purchase and provide all the machinery and materials, and employ such persons and appoint such officers as are necessary for this purpose. [See §§ 5430, 5453.]

SEC. 3578. The necessary expenses of engraving, printing, preparing, and issuing the United States notes, Treasury notes, and fractional notes shall be paid out of any money in the Treasury not otherwise appropriated; but no extra compensation for preparing, signing, or issuing such notes shall be allowed to any officer whose salary is fixed by law.

Expenses of issuing notes.

30 June, 1864, c. 172, s. 9, v. 13, p. 221. 14 Jan., 1875, c. 15, v. 18, p. 296. 3 Mar., 1803, c. 73, s. 6, v. 12, p. 711. 23 Dec., 1857, c. 1, s. 11, v. 11, p. 259. 3 Mar., 1875, c. 130, v. 18, p. 373.

SEC. 3579. When any United States notes are returned to the Treasury, they may be re-issued, from time to time, as the exigencies of the public interest may require.

Reissue of United States notes.

23 Feb., 1862, c. 33, s. 1, v. 12, p. 345. 11 July, 1862, c. 142, s. 1, v. 12, p. 532. 3 Mar., 1863, c. 73, s. 3, v. 12, p. 710. 14 Jan., 1875, c. 15, v. 18, p. 296.

SEC. 3580. When any United States notes returned to the Treasury are so mutilated or otherwise injured as to be unfit for use, the Secretary of the Treasury is authorized to replace the same with others of the same character and amounts.

Replacing mutilated notes.

17 Mar., 1862, c. 45, s. 4, v. 12, p. 370. 14 Jan., 1875, c. 15, v. 18, p. 296.

SEC. 3581. Mutilated United States notes, when replaced according to law, and all other notes which by law are required to be taken up, and not re-issued, when taken up, shall be destroyed in such manner and under such regulations as the Secretary of the Treasury may prescribe.

Destruction of notes.

17 Mar., 1862, c. 45, s. 4, v. 12, p. 370. 14 Jan., 1875, c. 15, v. 18, p. 296.

SEC. 3582. The authority given to the Secretary of the Treasury to make any reduction of the currency, by retiring and canceling United States notes, is suspended.

Reduction of the currency suspended.

12 April, 1866, c. 39, s. 1, v. 14, p. 31. 4 Feb., 1868, c. 6, v. 15, p. 34. 20 June, 1874, c. 343, v. 18, p. 124.

SEC. 3583. No person shall make, issue, circulate, or pay out any note, check, memorandum, token, or other obligation for a less sum than one dollar, intended to circulate as money or to be received or used in lieu of lawful money of the United States; and every person so offending shall be fined not more than five hundred dollars or imprisoned not more than six months, or both, at the discretion of the court.

Restriction on notes less than one dollar.

17 July, 1862, c. 196, s. 2, v. 12, p. 592.

TITLE XXXIX. LEGAL TENDER.

Sec.

3584. Foreign coins.
3585. Gold coins of the United States.
3586. Silver coins of the United States.
3587. Minor coins.

Sec.

3588. United States notes.
3589. Demand Treasury notes.
3590. Interest-bearing notes.

Foreign coins.

21 Feb., 1857, c.
56, s. 3, v. 11, p. 163.

Gold coins of the United States.

12 Feb., 1873, c.
131, s. 14, v. 17, p.
426.

3 Mar., 1875, c.
143, s. 2, v. 18, p. 479.

Silver coins of the United States.

12 Feb., 1873, c.
131, s. 15, v. 17, p. 427.

Minor coins.

12 Feb., 1873, c.
131, s. 16, v. 17, p.
427.

United States notes.

25 Feb., 1862, c.
33, s. 1, v. 12, p. 345.

11 July, 1862, c. 142, s. 1, v. 12, p. 532. 17 Jan., 1863, Res. 9, v. 12, p. 823. 3 Mar., 1863, c. 73, s. 3, v. 12, p. 711. 3 Mar., 1875, c. 143, s. 2, v. 18, p. 479.—
Bank v. Supervisors, 7 Wall., 26; Lane County v. Oregon, 7 Wall., 71; Bronson v. Rhodes, 7 Wall., 229; Butler v. Horwitz, 7 Wall., 258; Hepburn v. Griswold, 8 Wall., 603; Knox v. Lee, 11 Wall., 682; Legal Tender Cases, Knox v. Lee, 12 Wall., 457; Dooley v. Smith, 13 Wall., 604; Railroad Company v. Johnson, 15 Wall., 195.

Demand Treasury notes.

17 July, 1861, c.
5, s. 1, v. 12, p. 259.

12 Feb., 1862, c.
20, v. 12, p. 333.

25 Feb., 1862, c. 33, s. 1, v. 12, p. 345. 17 Mar., 1862, c. 45, s. 2, v. 12, p. 370. 3 Mar., 1875, c. 143, s. 2, v. 18, p. 479.—Savage, executrix, v. U. S., 92 U. S., 382.

Interest-bearing notes.

3 Mar., 1863, c.
73, s. 2, v. 12, p. 710.

30 June, 1864, c.
172, s. 2, v. 13, p. 218.

3 Mar., 1875, c.
143, s. 2, v. 18, p. 479.

SEC. 3584. No foreign gold or silver coins shall be a legal tender in payment of debts.

SEC. 3585. The gold coins of the United States shall be a legal tender in all payments at their nominal value when not below the standard weight and limit of tolerance provided by law for the single piece, and, when reduced in weight below such standard and tolerance, shall be a legal tender at valuation in proportion to their actual weight.

SEC. 3586. The silver coins of the United States shall be a legal tender at their nominal value for any amount not exceeding five dollars in any one payment.

SEC. 3587. The minor coins of the United States shall be a legal tender, at their nominal value for any amount not exceeding twenty-five cents in any one payment.

SEC. 3588. United States notes shall be lawful money, and a legal tender in payment of all debts, public and private, within the United States, except for duties on imports and interest on the public debt.

SEC. 3589. Demand Treasury notes authorized by the act of July seventeen, eighteen hundred and sixty-one, chapter five, and the act of February twelve, eighteen hundred and sixty-two, chapter twenty, shall be lawful money and a legal tender in like manner as United States notes.

SEC. 3590. Treasury notes issued under the authority of the acts of March three, eighteen hundred and sixty-three, chapter seventy-three, and June thirty, eighteen hundred and sixty-four, chapter one hundred and seventy-two, shall be legal tender to the same extent as United States notes, for their face value, excluding interest: *Provided*, That Treasury notes issued under the act last named shall not be a legal tender in payment or redemption of any notes issued by any bank, banking association, or banker, calculated and intended to circulate as money.

TITLE XL. THE PUBLIC MONEYS.

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| <p>Sec.
3591. The Treasury of the United States.
3592. Certain mints and assay-offices to be depositories.
3593. All public moneys subject to draft of Treasurer.
3594. Superintendents at Carson and Boise City to be assistant treasurers.
3595. Appointment of assistant treasurers.
3596. Their salaries.
3597. Commissions and perquisites forbidden.
3598. Rooms, &c., for assistant treasurers.
3599. To have charge of and perform their duties in rooms assigned.
3600. Their bonds.
3601. Subordinate officers, clerks, &c., at Boston.
3602. Deputy assistant treasurer at New York.
3603. Subordinate officers, clerks, &c., at New York.
3604. Additional clerks, &c., at New York.
3605. Subordinate officers, &c., at Philadelphia.
3606. At Baltimore.
3607. At Saint Louis.
3608. At Charleston.
3609. At New Orleans.
3610. At San Francisco.
3611. At Chicago.
3612. At Cincinnati.
3613. Deputies in case of sickness or absence.
3614. Bonds of special agents.
3615. Collectors of public moneys to pay over.
3616. Payment by marshals and district attorneys.
3617. Moneys to be deposited without deduction.
3618. Proceeds of sales of material.
3619. Penalty for withholding money.
3620. Duty of disbursing officers.
3621. Penalty for failure to deposit when required.
3622. Accounts.
3623. Distinct accounts required.
3624. Suits to recover moneys from officers.
3625. Distress-warrant.</p> | <p>Sec.
3626. Contents of warrant.
3627. Execution against officer.
3628. Execution against surety.
3629. Levy to be a lien.
3630. Sale of lands, &c., on execution.
3631. Conveyance of lands sold.
3632. Disposal of surplus.
3633. Penalty on disbursing officer failing to account.
3634. Extent of application of provisions relating to distress-warrants.
3635. Postponement of proceedings for non-accounting, when allowed.
3636. Injunction to stay distress-warrant.
3637. Proceedings on distress-warrant in circuit court.
3638. Rights of United States reserved.
3639. Duties of officers as custodians of public money.
3640. Transfer of moneys from depositories to Treasury.
3641. Transfer of postal deposits.
3642. Accounts of postal deposits.
3643. Entry of deposits, transfers, and payments.
3644. Public money subject to draft of Treasurer.
3645. Regulations for presenting drafts.
3646. Duplicates for lost or stolen checks.
3647. Duplicate check when officer who issued is dead.
3648. Advance of public moneys prohibited.
3649. Examination of depositories.
3650. Examination of accounts of custodians of public moneys.
3651. Exchange of funds restricted.
3652. Premium on sales of public money to be accounted for.
3653. Expenses of fiscal agents.
3654. Limit on extra compensation for making disbursements.
3655. Compensation of depositories.
3656. Limit upon such compensation.
3657. Collectors to act as disbursing agents.
3658. Appointment of special disbursing agents where no collector is authorized.
3659. Investment of trust-funds.</p> |
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- SEC. 3591. The rooms provided in the Treasury building at the seat of Government for the use of the Treasurer of the United States, his assistants, and clerks, and occupied by them, and the fire-proof vaults and safes erected therein for the keeping of the public moneys in the possession and under the immediate control of the Treasurer, and such other apartments as are provided as places of deposit of the public money, shall be the Treasury of the United States.
- SEC. 3592. The mints at Carson City, and at Denver, and the assay-office at Boise City, shall be places of deposit for such public moneys as the Secretary of the Treasury may direct.
- SEC. 3593. All public moneys paid into any depository shall be subject to the draft of the Treasurer of the United States, drawn agreeably to appropriations made by law.

The Treasury of the United States.

6 Aug., 1846, c. 90, s. 1, v. 9, p. 59.

Cooke et al. v. U. S., 91 U. S., 389.

Certain mints and assay-offices to be depositories.

Public moneys subject to draft of the Treasurer.

6 Aug., 1846, c. 90, s. 1, v. 9, p. 59.

Superintendent of mint at Carson and assay-office at Boisé City to be assistant treasurers.

21 April, 1862, c. 50, s. 5, v. 12, p. 383.
271. 3 Mar., 1871, c. 113, s. 1, v. 16, p. 485.

Appointment, &c., of assistant treasurers.

6 Aug., 1846, c. 90, s. 5, v. 9, p. 60.
7 April, 1868, c. 28, s. 14, v. 14, p. 26.
15 June, 1870, c. 12, s. 1, v. 16, p. 152.
12 Feb., 1873, c. 131, s. 65, v. 17, p. 435.
3 Mar., 1873, c. 229, s. 5, v. 17, p. 543.

Repealed in part by 15 Aug., 1876, c. 287, v. 19, p. 155.

Salaries of assistant treasurers.

6 Aug., 1846, c. 90, s. 22, v. 9, p. 65.
3 Mar., 1853, c. 98, s. 16, v. 10, p. 214.
3 Mar., 1855, c. 175, s. 1, v. 10, p. 656.
7 April, 1866, c. 28, s. 14, v. 14, p. 26.
20 July, 1868, c. 179, s. 1, v. 15, p. 107.
15 June, 1870, c. 129, s. 4, v. 16, p. 152.
12 Feb., 1873, c. 131, s. 65, v. 17, p. 435.
3 Mar., 1873, c. 229, s. 8, v. 17, p. 543.

Receipt of commissions and perquisites forbidden.

6 Aug., 1846, c. 90, s. 22, v. 9, p. 65.

Rooms for use of assistant treasurers.

6 Aug., 1846, c. 90, ss. 3, 4, v. 9, p. 59.
15 June, 1870, c. 129, s. 2, v. 16, p. 152.

Their care and the use of the rooms.

6 Aug., 1846, c. 90, ss. 3, 4, v. 9, p. 59.

SEC. 3594. The superintendent of the mint at Carson City, and the superintendent of the assay-office at Boisé City, shall be assistant treasurers of the United States, and shall respectively have the custody and care of all public moneys deposited therein, and shall perform all the duties required of them in reference to the receipt, safe-keeping, transfer, and disbursement of all such moneys, as provided by law.

3 Mar., 1863, c. 96, s. 5, v. 12, p. 770. 18 Feb., 1869, c. 33, s. 4, v. 15, p. 12 Feb., 1873, c. 131, ss. 65, 66, v. 17, p. 435.

SEC. 3595. There shall be assistant treasurers of the United States, appointed from time to time by the President, by and with the advice and consent of the Senate, to serve for the term of four years, as follows:

One at Boston.
One at New York.
One at Philadelphia.
One at Baltimore.
[One at Charleston.]
One at New Orleans.
One at Saint Louis.
One at San Francisco.
One at Cincinnati.
One at Chicago.

By statute of August 15, 1876, c. 287, v. 19, p. 155, so much of this section as authorizes the appointment of an assistant treasurer at Charleston was repealed.

SEC. 3596. The assistant treasurers shall be entitled to the following salaries, to be paid quarter-yearly at the Treasury of the United States, to wit:

First. The assistant treasurer at Boston, to five thousand dollars a year.
Second. The assistant treasurer at New York, to eight thousand dollars a year.
Third. The assistant treasurer at Philadelphia, to five thousand dollars a year.
Fourth. The assistant treasurer at Baltimore, to five thousand dollars a year.
Fifth. The assistant treasurer at Charleston, to four thousand dollars a year.
Sixth. The assistant treasurer at New Orleans, to four thousand five hundred dollars a year.
Seventh. The assistant treasurer at Saint Louis, to five thousand dollars a year.
Eighth. The assistant treasurer at San Francisco, to six thousand dollars a year.
Ninth. The assistant treasurer at Cincinnati, to five thousand dollars a year.
Tenth. The assistant treasurer at Chicago, to five thousand dollars a year.

SEC. 3597. The salaries named in the preceding section shall be in full for the services of the respective officers, and none of them shall charge or receive any commission, pay, or perquisite, for any official service of any character or description whatsoever. Every such officer who makes any such charge, or receives any such compensation, shall be deemed guilty of a misdemeanor, and shall be fined or imprisoned, or both.

SEC. 3598. The rooms assigned by law to be occupied by the assistant treasurers, together with the fire-proof vaults therein, or connected therewith, shall be appropriated to the use of the assistant treasurers, and for the safe-keeping of the public moneys deposited with them, respectively.

SEC. 3599. The assistant treasurers shall have the charge and care of the rooms, vaults, and safes assigned to them, respectively, and shall there perform the duties required of them relating to the receipt, safe-keeping, transfer, and disbursement of the public moneys.

15 June, 1870, c. 129, s. 2, v. 16, p. 152.

SEC. 3600. All assistant treasurers, and all officers in any mint, or assay-office, authorized by law to act as assistant treasurers, shall, respectively, give bonds to the United States for the faithful discharge of the duties of their respective offices as assistant treasurers, according to law, and for such amounts as shall be directed by the Secretary of the Treasury, with sureties to the satisfaction of the Solicitor of the Treasury; and shall, from time to time, renew, strengthen, and increase their official bonds as the Secretary of the Treasury may direct.

Bonds of assistant treasurers.

6 Aug., 1846, c. 90.

ss. 5, 7, v. 9, p. 60.

7 April, 1863, c.

28, s. 14, v. 14, p. 26.

15 June, 1870, c.

12, s. 1, v. 16, p. 152.

12 Feb., 1873, c.

131, s. 65, v. 17, p.

435, s. 5, v. 17, p. 543.

SEC. 3601. There shall be employed in the office of the assistant treasurer at Boston: One chief clerk, at two thousand seven hundred dollars a year; one paying-teller, at two thousand five hundred dollars; one chief interest-clerk, at two thousand five hundred dollars; one receiving teller, at one thousand eight hundred dollars; one first book-keeper, at one thousand seven hundred dollars; one second book-keeper, "depositors' accounts, at one thousand five hundred dollars; one stamp and new fractional-currency clerk, at one thousand eight hundred dollars; one specie-clerk, at one thousand five hundred dollars; two coupon-clerks, at one thousand four hundred dollars each; one fractional-currency redemption clerk, at one thousand two hundred dollars; one receipt-clerk, at one thousand two hundred dollars; one assistant book-keeper, at eight hundred dollars; one money-clerk, at one thousand dollars; one assistant currency-redemption clerk, at one thousand one hundred dollars; one assistant currency-redemption clerk, at one thousand dollars; one messenger and chief watchman, at one thousand and sixty dollars; two watchmen, at eight hundred and fifty dollars each; one assistant specie-clerk, at one thousand four hundred dollars.

Subordinate officers, &c., at Boston.

10 Mar., 1862, c.

48, s. 1, v. 12, p.

373.

23 July, 1863, c.

203, s. 1, v. 14, p.

202.

8 May, 1872, c.

140, s. 1, v. 17, p.

70.

3 Mar., 1873, c.

223, s. 1, v. 17, pp.

495, 496.

SEC. 3602. The assistant treasurer at New York may, with the approval of the Secretary of the Treasury, appoint from among his clerks a competent person to be called the deputy assistant treasurer of the United States. Such deputy assistant treasurer, in addition to other duties performed by him, and the duties which he may be required to perform by the assistant treasurer, is authorized to witness the execution of all transfers of Government stock and powers of attorney, and to sign all bullion-receipts, with like effect as if the same were witnessed or signed by the assistant treasurer in person.

Deputy assistant treasurer at New York.

6 Mar., 1862, c.

37, s. 2, v. 12, p.

353.

SEC. 3603. There shall be employed in the office of the assistant treasurer at New York: One deputy assistant treasurer, at three thousand six hundred dollars a year; one cashier and chief clerk, at four thousand two hundred dollars; one chief of coin division, at four thousand dollars; one chief of note-paying division, at three thousand dollars; one chief of note-receiving division, at three thousand dollars; one chief of check-division, at three thousand dollars; one chief of registered-interest division, at two thousand eight hundred dollars; one chief of coupon-interest division, at two thousand five hundred dollars; one chief of fractional-currency division, at two thousand five hundred dollars; one chief of bond division, at two thousand four hundred dollars; one chief of canceled-check and record division, at two thousand dollars; two clerks, at two thousand four hundred dollars each; six clerks, at two thousand two hundred dollars each; ten clerks, at two thousand dollars each; nine clerks, at one thousand eight hundred dollars each; four clerks, at one thousand seven hundred dollars each; ten clerks, at one thousand four hundred dollars each; three clerks, at one thousand two hundred dollars each; five messengers, at one thousand two hundred dollars each; one messenger, at one thousand two hundred dollars; one keeper of building, at one thousand eight hundred dollars; one chief detective, at one thousand eight hundred dollars; one assistant detective, at one thousand four hundred dollars; four hall-men, at one thousand dollars each; six watchmen, at seven hundred and thirty dollars each; one engineer, at one thousand dollars; one porter, at nine hundred dollars.

Appointment and salaries of subordinate officers, &c., at New York.

4 Aug., 1854, c.

242, s. 11, v. 10, p.

573.

6 Mar., 1862, c.

37, s. 1, v. 12, p. 353.

3 Mar., 1873, c.

226, s. 1, v. 17, p. 495.

Appointment of other clerks, messengers, &c., at New York.

6 Mar., 1862, c. 37, s. 1, v. 12, p. 353.

Subordinate officers, &c., at Philadelphia.

3 Mar., 1863, c. 79, s. 12, v. 12, p. 753.

3 Mar., 1873, c. 226, s. 1, v. 17, p. 496.

At Baltimore.

15 June, 1870, c. 129, s. 5, v. 16, p. 152.

3 Mar., 1873, c. 226, s. 1, v. 17, p. 496.

At Saint Louis.

20 May, 1862, c. 76, s. 2, v. 12, p. 304.

3 Mar., 1873, c. 226, s. 1, v. 17, p. 496.

At Charleston.

8 May, 1872, c. 140, s. 1, v. 17, p. 71.

3 Mar., 1873, c. 226, s. 1, v. 17, p. 496.

At New Orleans.

25 June, 1864, c. 148, s. 7, v. 13, p. 161.

3 Mar., 1873, c. 226, s. 1, v. 17, p. 496.

At San Francisco.

3 Mar., 1873, c. 226, s. 1, v. 17, p. 496.

At Chicago.

3 Mar., 1873, c. 223, s. 9, v. 17, p. 543.

3 Mar., 1873, c. 226, s. 1, v. 17, p. 496.

SEC. 3604. The assistant treasurer at New York may appoint, from time to time, by and with the consent and approbation of the Secretary of the Treasury, such other clerks, messengers, and watchmen, in addition to those already employed by him, as the exigencies of the public business may require, at rates of compensation to be fixed by the Secretary of the Treasury, but such rates shall in no case exceed those allowed by law for the several persons similarly employed in the office of the said assistant treasurer.

SEC. 3605. There shall be employed in the office of the assistant treasurer at Philadelphia: One cashier and chief clerk, at two thousand seven hundred dollars a year; one chief book-keeper, at two thousand five hundred dollars; one chief interest-clerk, at one thousand nine hundred dollars; one assistant book-keeper, at one thousand eight hundred dollars; one coin-teller, at one thousand seven hundred dollars; one assistant coupon-clerk, at one thousand six hundred dollars; one fractional currency clerk, at one thousand six hundred dollars; one assistant registered-loan clerk, at one thousand five hundred dollars; one assistant registered-loan clerk, at one thousand four hundred dollars; one assistant coin-teller, at one thousand four hundred dollars; one assistant fractional-currency clerk, at one thousand four hundred dollars; one receiving-teller, at one thousand three hundred dollars; one assistant receiving-teller, at one thousand two hundred dollars; one superintendent of building, at one thousand one hundred dollars; seven female counters, at nine hundred dollars each; four watchmen, at nine hundred and thirty dollars each.

SEC. 3606. There shall be employed in the office of the assistant treasurer at Baltimore: One cashier, at two thousand five hundred dollars a year; three clerks, at one thousand eight hundred dollars each; three clerks, at one thousand four hundred dollars each; two clerks, at one thousand two hundred dollars each; one messenger, at eight hundred and forty dollars; five vault-watchmen, at seven hundred and twenty dollars each.

SEC. 3607. There shall be employed in the office of the assistant treasurer at Saint Louis: One chief clerk and teller, at two thousand five hundred dollars a year; one assistant teller, at one thousand eight hundred dollars; one book-keeper, at one thousand five hundred dollars; one assistant book-keeper, at one thousand two hundred dollars; one messenger, at one thousand dollars; and four watchmen, at seven hundred dollars each.

SEC. 3608. There shall be employed in the office of the assistant treasurer at Charleston, South Carolina: One clerk, at one thousand eight hundred dollars a year; one clerk, at one thousand six hundred dollars; one assistant messenger, at seven hundred and twenty dollars; and two watchmen, at seven hundred and twenty dollars each.

SEC. 3609. There shall be employed in the office of the assistant treasurer at New Orleans: One chief clerk and cashier, at two thousand five hundred dollars a year; one clerk, at two thousand dollars; two clerks, at one thousand five hundred dollars each; one porter, at nine hundred dollars; and two watchmen, at seven hundred and twenty dollars each.

SEC. 3610. There shall be employed in the office of the assistant treasurer at San Francisco: One cashier, at three thousand dollars a year; one book-keeper, at two thousand five hundred dollars; one assistant cashier, at two thousand dollars; one assistant book-keeper, at two thousand dollars; one stamp-clerk, at two thousand four hundred dollars; one clerk, at one thousand eight hundred dollars; three night-watchmen, at one thousand five hundred dollars each; one day-watchman, at nine hundred and sixty dollars.

SEC. 3611. There shall be employed in the office of the assistant treasurer at Chicago: One cashier, at two thousand five hundred dollars a year; one clerk, at one thousand eight hundred dollars; two clerks, at one thousand five hundred dollars each; one clerk, at one thousand two

hundred dollars; one messenger, at eight hundred and forty dollars; and one watchman, at seven hundred and twenty dollars.

SEC. 3612. There shall be appointed in the office of the assistant treasurer at Cincinnati: One cashier, at two thousand dollars a year; one clerk, at one thousand eight hundred dollars; one clerk, at one thousand five hundred dollars; two clerks, at one thousand two hundred dollars each; two clerks, at one thousand dollars each; one messenger, at six hundred dollars; two watchmen, one at seven hundred and twenty dollars, and one at two hundred and forty dollars.

SEC. 3613. In case of the sickness or unavoidable absence of any assistant treasurer or depositary from his office, he may, with the approval of the Secretary of the Treasury, authorize the chief clerk, or some other clerk employed therein, to act in his place, and to discharge all the duties required by law of such assistant treasurer or depositary. The official bond given by the principal of the office shall be held to cover and apply to the acts of the person appointed to act in his place in such cases. Such acting officer shall moreover, for the time being, be subject to all the liabilities and penalties prescribed by law for the official misconduct, in like cases, of the assistant treasurer or depositary, respectively, for whom he acts.

SEC. 3614. Whenever it becomes necessary for the head of any Department or office to employ special agents, other than officers of the Army or Navy, who may be charged with the disbursement of public moneys, such agents shall, before entering upon duty, give bond in such form and with such security as the head of the Department or office employing them may approve.

SEC. 3615. All collectors and receivers of public money of every description, within the District of Columbia, shall, as often as they may be directed by the Secretary of the Treasury or the Postmaster-General so to do, pay over to the Treasurer of the United States, at the Treasury, all public moneys collected by them or in their hands. All such collectors and receivers of public moneys within the cities of New York, Boston, Philadelphia, New Orleans, San Francisco, Baltimore, Charleston, and Saint Louis shall, upon the same direction, pay over to the assistant treasurers in their respective cities, at their offices, respectively, all the public moneys collected by them, or in their hands; to be safely kept by the respective depositaries, until otherwise disposed of according to law. It shall be the duty of the Secretary and Postmaster-General, respectively, to direct such payments by the collectors and receivers at all the said places, at least as often as once in each week, and as much oftener as they may think proper [See § 5490.]

SEC. 3616. All marshals, district attorneys, and other persons than those mentioned in the preceding section, having public money to pay to the United States, may pay the same to any depositary constituted by or in pursuance of law, which may be designated by the Secretary of the Treasury. [See §§ 5504, 5505.]

SEC. 3617. The gross amount of all moneys received from whatever source for the use of the United States, except as otherwise provided in the next section, shall be paid by the officer or agent receiving the same into the Treasury, at as early a day as practicable, without any abatement or deduction on account of salary, fees, costs, charges, expenses, or claim of any description whatever. But nothing herein shall affect any provision relating to the revenues of the Post-Office Department.

SEC. 3618. All proceeds of sales of old material, condemned stores, supplies, or other public property of any kind, except the proceeds of the sale or leasing of marine hospitals, or of the sales of revenue-cutters, or of the sales of commissary stores to the officers and enlisted men of the Army, [or of materials, stores, or supplies sold to officers and soldiers of the Army] or of the sale of condemned Navy clothing, or of sales of materials, stores, or supplies to any exploring or surveying expedition authorized by law, shall be deposited and covered into the Treas-

At Cincinnati.

Ibid.

Deputies in case of sickness or absence.

13 Feb., 1865, c. 32, v. 13, p. 427.

Bond of special agents.

4 Aug., 1854, c. 242, s. 14, v. 10, p. 573.

Collectors of public moneys to pay over.

6 Aug., 1846, c. 90, s. 9, v. 9, p. 61.
12 Feb., 1873, c. 131, s. 65, v. 17, p. 435.

How marshals and district attorneys may pay into Treasury.

6 Aug., 1846, c. 90, s. 15, v. 9, p. 62. 8 July, 1870, c. 230, s. 111, v. 16, p. 216.

Moneys to be deposited without deduction.

3 Mar., 1849, c. 110, s. 1, v. 9, p. 398.
28 Sept., 1850, c. 78, s. 3, v. 9, p. 507.

Proceeds of sales of material.

3 Mar., 1847, c. 48, s. 1, v. 9, p. 171.
20 April, 1866, c. 63, ss. 1, 2, v. 14, p. 40.
28 July, 1866, c. 299, s. 25, v. 14, p. 336.

3 May, 1872, c. 140, s. 5, v. 17, p. 83. ury as miscellaneous receipts, on account of "proceeds of Government property," and shall not be withdrawn or applied, except in consequence of a subsequent appropriation made by law.

8 June, 1872, c. 348, v. 17, p. 337. of a subsequent appropriation made by law.

22 June, 1874, c. 413, v. 18, p. 200. 27 Feb., 1877, c. 69, v. 19, p. 249.

Penalty for withholding money. SEC. 3619. Every officer or agent who neglects or refuses to comply with the provisions of section thirty-six hundred and seventeen shall be subject to be removed from office, and to forfeit to the United States any share or part of the moneys withheld, to which he might otherwise be entitled.

Duty of disbursing officers. SEC. 3620. It shall be the duty of every disbursing officer having any public money intrusted to him for disbursement, to deposit the same with the Treasurer or some one of the assistant treasurers of the United States, and to draw for the same only as it may be required for payments to be made by him in pursuance of law [and draw for the same only in favor of the persons to whom payment is made;] and all transfers from the Treasurer of the United States to a disbursing officer shall be by draft or warrant on the Treasury or an assistant treasurer of the United States. In places, however, where there is no treasurer or assistant treasurer, the Secretary of the Treasury may, when he deems it essential to the public interest, specially authorize in writing the deposit of such public money in any other public depository, or, in writing, authorize the same to be kept in any other manner, and under such rules and regulations as he may deem most safe and effectual to facilitate the payments to public creditors. [See § 5493.]

Penalty for failure to deposit money when required. SEC. 3621. Every person who shall have moneys of the United States in his hands or possession shall pay the same to the Treasurer, an assistant treasurer, or some public depository of the United States, and take his receipt for the same, in duplicate, and forward one of them forthwith to the Secretary of the Treasury. [See § 5492.]

Accounts. SEC. 3622. Every officer or agent of the United States who receives public money which he is not authorized to retain as salary, pay, or emolument, shall render his accounts monthly. Such accounts, with the vouchers necessary to the correct and prompt settlement thereof, shall be sent by mail, or otherwise, to the Bureau to which they pertain, within ten days after the expiration of each successive month, and, after examination there, shall be passed to the proper accounting officer of the Treasury for settlement. Disbursing officers of the Navy shall, however, render their accounts and vouchers direct to the proper accounting officer of the Treasury. In case of the non-receipt at the Treasury, or proper Bureau, of any accounts within a reasonable and proper time thereafter, the officer whose accounts are in default shall be required to furnish satisfactory evidence of having complied with the provisions of this section. The Secretary of the Treasury may, if in his opinion the circumstances of the case justify and require it, extend the time hereinbefore prescribed for the rendition of accounts. Nothing herein contained shall, however, be construed to restrain the heads of any of the Departments from requiring such other returns or reports from the officer or agent, subject to the control of such heads of [Department] [Departments], as the public interest may require. [See § 5491.]

Distinct accounts required. SEC. 3623. All officers, agents, or other persons, receiving public moneys, shall render distinct accounts of the application thereof, according to the appropriation under which the same may have been advanced to them.

Suits to recover money from officers, regulated. SEC. 3624. Whenever any person accountable for public money, neglects or refuses to pay into the Treasury the sum or balance reported to be due to the United States, upon the adjustment of his account, the First Comptroller of the Treasury shall institute suit for the recovery of the same, adding to the sum stated to be due on such account, the commissions of the delinquent, which shall be forfeited in every instance where suit is commenced and judgment obtained thereon, and an interest of six per centum per annum, from the time of receiving the money until it shall be repaid into the Treasury.

3 Mar., 1877, c. 20, s. 1, v. 1, p. 512.

U. S. v. Gaussen, 19 Wall., 198.

SEC. 3625. Whenever any collector of the revenue, receiver of public money, or other officer who has received the public money before it is paid into the Treasury of the United States, fails to render his account, or pay over the same in the manner or within the time required by law, it shall be the duty of the First Comptroller of the Treasury [or the Commissioner of Customs, as the case may be,] to cause to be stated the account of such officer, exhibiting truly the amount due to the United States, and to certify the same to the Solicitor of the Treasury, who shall issue a warrant of distress against the delinquent officer and his sureties, directed to the marshal of the district in which such officer and his sureties reside. Where the officer and his sureties reside in different districts, or where they, or either of them, reside in a district other than that in which the estate of either may be, which it is intended to take and sell, then such warrant shall be directed to the marshals of such districts, respectively.

Distress-warrant.

15 May, 1820, c. 107, s. 2, v. 3, p. 592.
29 May, 1830, c. 153, s. 1, v. 4, p. 414.
27 Feb., 1877, c. 69, v. 19, p. 249.

U. S. v. Kirkpatrick, 9 Wh., 720;
U. S. v. Van Zandt, 11 Wh., 184; U. S. v. Nicholl, 12 Wh., 505; Dox v. Postmaster-General, 1 Pet., 325; U. S. v. Nourse, 9 Pet., 8; Cary v. Curtis, 3 U. S. v. Maurice, 2 Brock,

How., 246; Murray's Lessee v. Hoboken Co., 18 How., 272; U. S. v. Randolph, 2 Brock, 447; Armstrong v. U. S., Gilp., 339.

SEC. 3626. The warrant of distress shall specify the amount with which such delinquent is chargeable, and the sums, if any, which have been paid.

Contents of warrant.

15 May, 1820, c. 107, s. 2, v. 3, p. 592. 29 May, 1830, c. 153, s. 1, v. 4, p. 414.

SEC. 3627. The marshal authorize^d to execute any warrant of distress shall, by himself or by his deputy, proceed to levy and collect the sum remaining due, by distress and sale of the goods and chattels of such delinquent officer; having given ten days' previous notice of such intended sale, by affixing an advertisement of the articles to be sold at two or more public places in the town and county where the goods or chattels were taken, or in the town or county where the owner of such goods or chattels may reside. If the goods and chattels be not sufficient to satisfy the warrant, the same may be levied upon the person of such officer, who may be committed to prison, there to remain until discharged by due course of law.

Execution against officer.

15 May, 1820, c. 107, s. 2, v. 3, p. 593.

SEC. 3628. If the delinquent officer absconds, or if goods and chattels belonging to him cannot be found sufficient to satisfy the warrant, the marshal or his deputy shall proceed, notwithstanding the commitment of the delinquent officer, to levy and collect the sum which remains due by such delinquent, by the distress and sale of the goods and chattels of his sureties; having given ten days' previous notice of such intended sale, by affixing an advertisement of the articles to be sold at two or more public places in the town or county where the goods or chattels were taken, or in the town or county where the owner resides.

Execution against surety.

Ibid.

SEC. 3629. The amount due by any delinquent officer is declared to be a lien upon the lands, tenements, and hereditaments of such officer and his sureties, from the date of a levy in pursuance of the warrant of distress issued against him or them, and a record thereof made in the office of the clerk of the district court of the proper district, until the same is discharged according to law.

Levy to be a lien.

Ibid.

SEC. 3630. For want of goods and chattels of a delinquent officer, or his sureties, sufficient to satisfy any warrant of distress issued pursuant to the foregoing provisions, the lands, tenements, and hereditaments of such officer and his sureties, or so much thereof as may be necessary for that purpose, after being advertised for at least three weeks in not less than three public places in the county or district where such real estate is situated, before the time of sale, shall be sold by the marshal of such district or his deputy.

Sale of lands regulated.

Ibid.

SEC. 3631. For all lands, tenements, or hereditaments sold in pursuance of the preceding section, the conveyance of the marshal or his deputy, executed in due form of law, shall give a valid title against all persons claiming under such delinquent officer or his sureties.

Conveyance of lands.

Ibid.

SEC. 3632. All moneys which may remain of the proceeds of sales, satisfying the warrant of distress, and paying the reasonable costs plus charges of the sale, shall be returned to such delinquent officer or his sureties, as the case may be.

Disposal of surplus.

Ibid.

Failure of disbursing officer to account; penalty.

15 May, 1820, c. 107, s. 3, v. 3, p. 594.
29 May, 1830, c. 153, s. 1, v. 4, p. 414.

Extent of application of provision for distress-warrants.

15 May, 1820, c. 107, s. 3, v. 3, p. 594.

Postponement of proceedings for non-accounting, allowed.

15 May, 1820, c. 107, s. 3, v. 3, p. 594.

Injunction to stay distress-warrant.

15 May, 1820, c. 107, ss. 4, 5, v. 3, p. 595.

Proceedings on distress in circuit court.

15 May, 1820, c. 107, ss. 4, 6, v. 3, p. 595.

10 April, 1839, c. 22, s. 2, v. 16, p. 44.

Rights of United States reserved.

15 May, 1820, c. 107, s. 9, v. 3, p. 593.

Duties of officers as custodians of public moneys.

6 Aug., 1846, c. 90, s. 6, v. 9, p. 60.
3 July, 1852, c. 54, s. 7, v. 10, p. 12.

SEC. 3633. Whenever any officer employed in the civil, military, or naval service of the Government, to disburse the public money appropriated for those branches of the public service, respectively, fails to render his accounts, or to pay over, in the manner and in the times required by law, or by the regulations of the Department to which he is accountable, any sum of money remaining in his hands, it shall be the duty of the First or Second Comptroller of the Treasury, as the case may be, who shall be charged with the revision of the accounts of such officer, to cause to be stated and certified the account of such delinquent officer to the Solicitor of the Treasury, who is hereby authorized and required immediately to proceed against such delinquent officer, in the manner directed in the six preceding sections.

SEC. 3634. All the provisions relating to the issuing of a warrant of distress against a delinquent officer shall extend to every officer of the Government charged with the disbursement of the public money, and to their sureties, in the same manner and to the same extent as if they were herein described and enumerated.

SEC. 3635. With the approval of the Secretary of the Treasury, the institution of proceedings by a warrant of distress may be postponed, for a reasonable time, in cases where, in his opinion, the public interest will sustain no injury by such postponement.

SEC. 3636. Any person who considers himself aggrieved by any warrant of distress issued under the foregoing provisions may prefer a bill of complaint to any district judge of the United States, setting forth therein the nature and extent of the injury of which he complains; and thereupon the judge may grant an injunction to stay proceedings on such warrant altogether, or for so much thereof as the nature of the case requires. But no injunction shall issue till the party applying for it gives bond, with sufficient security, in a sum to be prescribed by the judge, for the performance of such judgment as may be awarded against him; nor shall the issuing of such injunction in any manner impair the lien produced by the issuing of the warrant. And the same proceedings shall be had on such injunction as in other cases, except that no answer shall be necessary on the part of the United States; and if, upon dissolving the injunction, it appears to the satisfaction of the judge that the application for the injunction was merely for delay, the judge may add to the lawful interest assessed on all sums found due against the complainant such damages as, with such lawful interest, shall not exceed the rate of ten per centum a year. Such injunction may be granted or dissolved by the district judge either in or out of court.

SEC. 3637. When the district judge refuses to grant an injunction to stay proceedings on a distress-warrant, as aforesaid, or dissolves such injunction after it is granted, any person who considers himself aggrieved by the decision in the premises may lay before the circuit justice, or circuit judge of the circuit within which such district lies, a copy of the proceeding had before the district judge; and thereupon the circuit justice or circuit judge may grant an injunction, or permit an appeal, as the case may be, if, in his opinion, the equity of the case requires it. The same proceedings, subject to the same conditions, shall be had upon such injunction in the circuit court as are prescribed in the district court.

SEC. 3638. Nothing contained in the provisions of this Title relating to distress-warrants shall be construed to take away or impair any right or remedy which the United States might have, by law, for the recovery of taxes, debts, or demands.

SEC. 3639. The Treasurer of the United States, all assistant treasurers, and those performing the duties of assistant treasurer, all collectors of the customs, all surveyors of the customs, acting also as collectors, all receivers of public moneys at the several land-offices, all postmasters, and all public officers of whatsoever character, are required to keep safely, without loaning, using, depositing in banks, or exchanging for other funds than as specially allowed by law, all the public money

collected by them, or otherwise at any time placed in their possession and custody, till the same is ordered, by the proper Department or officer of the Government, to be transferred or paid out; and when such orders for transfer or payment are received, faithfully and promptly to make the same as directed, and to do and perform all other duties as fiscal agents of the Government which may be imposed by any law, or by any regulation of the Treasury Department made in conformity to law. The President is authorized, if in his opinion the interest of the United States requires the same, to regulate and increase the sums for which bonds are, or may be, required by law, of all district attorneys, collectors of customs, naval officers, and surveyors of customs, navy agents, receivers and registers of public lands, paymasters in the Army, commissary-general, and by all other officers employed in the disbursement of the public moneys, under the direction of the War or Navy Departments. [See §§ 5489-5497.]

SEC. 3640. The Secretary of the Treasury may, except as provided in the next section, transfer the moneys in the hands of any depository of public moneys to the Treasury of the United States to the credit of the Treasurer; and he may transfer moneys in the hands of one depository to any other depository, as the safety of the public moneys and the convenience of the public service shall seem to him to require.

SEC. 3641. The Postmaster-General may transfer money belonging to the postal service between the Treasurer, assistant treasurers, and designated depositories, at his discretion, and as the safety of the public money and the convenience of the service may require.

SEC. 3642. Every depository shall keep his account of the money paid to or deposited with him, belonging to the Post Office Department, separate and distinct from the account kept by him of other public moneys so paid or deposited.

SEC. 3643. All persons charged by law with the safe-keeping, transfer, and disbursement of the public moneys, other than those connected with the Post-Office Department, are required to keep an accurate entry of each sum received and of each payment or transfer.

SEC. 3644. All moneys paid into the Treasury of the United States shall be subject to the draft of the Treasurer. And for the purpose of payments on the public account the Treasurer is authorized to draw upon any of the depositories, as he may think most conducive to the public interest and to the convenience of the public creditors. Each depository so drawn upon shall make returns to the Treasury and Post-Office Departments of all moneys received and paid by him, at such times and in such forms as shall be directed by the Secretary of the Treasury or the Postmaster-General.

SEC. 3645. It shall be the duty of the Secretary of the Treasury to issue and publish regulations to enforce the speedy presentation of all Government drafts, for payment, at the place where payable, and to prescribe the time, according to the different distances of the depositories from the seat of Government, within which all drafts upon them, respectively, shall be presented for payment; and, in default of such presentation, to direct any other mode and place of payment which he may deem proper; but, in all these regulations and directions, it shall be his duty to guard, as far as may be, against those drafts being used or thrown into circulation as a paper currency or a medium of exchange. [See §§ 5495, 5496.]

SEC. 3646. Whenever any original check is lost, stolen, or destroyed, disbursing officers and agents of the United States are authorized, after the expiration of six months, and within three years from the date of such check, to issue a duplicate check; and the Treasurer, assistant treasurers, and designated depositories of the United States are directed to pay such duplicate checks, upon notice and proof of the loss of the original checks, under such regulations in regard to their issue and payment, and upon the execution of such bonds, with sureties, to indemnify the United States, as the Secretary of the Treasury shall prescribe. This section shall not apply to any check exceeding in amount the sum of one thousand dollars.

3 Mar., 1857, c. 114, s. 2, v. 11, p. 249.

21 April, 1862, c. 59, s. 5, v. 12, p. 382.

3 Mar., 1863, c. 96, s. 5, v. 12, p. 770.

4 July, 1864, c. 24, s. 5, v. 13, p. 383.

18 Feb., 1869, c. 33, s. 4, v. 15, 271.

Transfer of moneys from depositories to Treasury authorized.

6 Aug., 1846, c. 90, s. 10, v. 9, p. 61.

Transfer of postal deposits.

8 June, 1872, c. 335, s. 56, v. 17, p. 292.

Accounts of postal deposits.

6 Aug., 1846, c. 90, s. 10, v. 9, p. 61.

Entry of each deposit, transfer, and payment.

6 Aug., 1846, c. 90, s. 10, v. 9, p. 63.

Public moneys in Treasury and depositories subject to draft of Treasurer.

6 Aug., 1846, c. 90, s. 10, v. 9, p. 61.

Regulations for presentation of drafts.

Ibid., s. 31, p. 65.

Duplicates for lost or stolen checks authorized.

2 Feb., 1872, c. 12, s. 1, v. 17, p. 29.

Duplicate check when officer who issued is dead.

7 Feb., 1872, c. 12, s. 2, v. 17, p. 29.

Advances of public moneys prohibited.

31 Jan., 1823, c. 9, s. 1, v. 3, p. 723.

Williams v. U. S., 1 How., 290; The Floyd Acceptances, 7 Wall., 666; U. S. v. Cutter, 2 Curt., 617.

Examination of depositaries.

6 Aug., 1846, c. 90, s. 11, v. 9, p. 62.
3 Mar., 1875, c. 129, v. 18, p. 355.

Examination of accounts of custodians of public moneys.

6 Aug., 1846, c. 90, s. 12, v. 9, p. 62.

Exchange of funds restricted.

6 Aug., 1846, c. 90, s. 20, v. 9, p. 64.
22 Feb., 1862, c. 33, s. 1, v. 12, p. 345.
11 July, 1862, c. 142, s. 1, v. 12, p. 532.
3 Mar., 1863, c. 73, s. 3, v. 12, p. 710.
3 June, 1864, c. 106, s. 23, v. 13, p. 106.

U. S. v. City Bank, 6 McLean, 130.

SEC. 3647. In case the disbursing officer or agent by whom such lost, destroyed, or stolen original check was issued, is dead, or no longer in the service of the United States, it shall be the duty of the proper accounting officer, under such regulations as the Secretary of the Treasury shall prescribe, to state an account in favor of the owner of such original check for the amount thereof, and to charge such amount to the account of such officer or agent.

SEC. 3648. No advance of public money shall be made in any case whatever. And in all cases of contracts for the performance of any service, or the delivery of articles of any description, for the use of the United States, payment shall not exceed the value of the service rendered, or of the articles delivered previously to such payment. It shall, however, be lawful, under the special direction of the President, to make such advances to the disbursing officers of the Government as may be necessary to the faithful and prompt discharge of their respective duties, and to the fulfillment of the public engagements. The President may also direct such advances as he may deem necessary and proper, to persons in the military and naval service employed on distant stations, where the discharge of the pay and emoluments to which they may be entitled cannot be regularly effected. [See § 1563.]

SEC. 3649. The Secretary of the Treasury is authorized to cause examinations to be made of the books, accounts, and money on hand, of the several depositaries; and for that purpose to appoint special agents, as occasion may require, with such compensation, not exceeding six dollars per day and traveling expenses, as he may think reasonable, to be fixed and declared at the time of each appointment. The agent selected to make these examinations shall be instructed to examine as well the books, accounts, and returns of the officer, as the money on hand, and the manner of its being kept, to the end that uniformity and accuracy in the accounts, as well as safety to the public moneys, may be secured thereby.

SEC. 3650. In addition to the examinations provided for in the preceding section, it shall be the duty of each naval officer and surveyor, as a check upon the assistant treasurers, or the collector of the customs, of their respective districts; of each register of a land-office, as a check upon the receiver of his land-office; and of the director and superintendent of each mint and branch-mint, when separate officers, as a check upon the treasurers, respectively, of the mints, or the persons acting as such, at the close of each quarter of the year, and as much oftener as they are directed by the Secretary of the Treasury to do so, to examine the books, accounts, returns, and money on hand, of the assistant treasurers, collectors, receivers of land-offices, treasurers of the Mint and each branch-mint, and persons acting as such, and to make a full, accurate, and faithful return of their condition to the Secretary of the Treasury.

SEC. 3651. No exchange of funds shall be made by any disbursing officer or agent of the Government, of any grade or denomination whatsoever, or connected with any branch of the public service, other than an exchange for gold, silver, United States notes, and national-bank notes; and every such disbursing officer, when the means for his disbursements are furnished to him in gold, silver, United States notes, or national-bank notes, shall make his payments in the moneys so furnished; or when they are furnished to him in drafts, shall cause those drafts to be presented at their place of payment, and properly paid according to law, and shall make his payments in the money so received for the drafts furnished, unless, in either case, he can exchange the means in his hands for gold and silver at par. And it shall be the duty of the head of the proper Department immediately to suspend from duty any disbursing officer or agent who violates the provisions of this section, and forthwith to report the name of the officer or agent to the President, with the fact of the violation, and all the circumstances accompanying the same, and within the knowledge of the Secretary, to the end that such officer or agent may be promptly removed from office, or restored to his trust

and the performance of his duties, as the President may deem just and proper.

SEC. 3652. No officer of the United States shall, either directly or indirectly, sell or dispose of to any person, for a premium, any Treasury note, draft, warrant, or other public security, not his private property, or sell or dispose of the avails or proceeds of such note, draft, warrant, or security, in his hands for disbursement, without making return of such premium, and accounting therefor by charging the same in his accounts to the credit of the United States; and any officer violating this section shall be forthwith dismissed from office.

Premium on sales of public moneys to be accounted for.

6 Aug., 1846, c. 90, s. 21, v. 9, p. 65.

SEC. 3653. The officers, respectively, whose duty it is made by this Title to receive, keep, or disburse the public moneys, as the fiscal agents of the Government, may be allowed any necessary additional expenses for clerks, fire-proof chests or vaults, or other necessary expenses of safe-keeping, transferring, or disbursing the moneys; but all such expenses of every character shall be first expressly authorized by the Secretary of the Treasury, whose directions upon all the above subjects, by way of regulation and otherwise, so far as authorized by law, shall be strictly followed by all the officers.

Expenses of fiscal agents.

6 Aug., 1846, c. 90, s. 13, v. 9, p. 62.

3 Mar., 1875, c. 129, v. 18, p. 355.

SEC. 3654. No extra compensation exceeding one-eighth of one per centum shall in any case be allowed or paid to any officer, person, or corporation for disbursing moneys appropriated to the construction of any public building.

Limit upon extra compensation for making disbursements.

3 Mar., 1869, c. 131, v. 18, p. 415.

SEC. 3655. The depositaries which have been or may be designated by the Secretary of the Treasury to receive payments and give receipts or certificates of deposit for public money from miscellaneous sources, other than the transactions of the respective offices for which they are or may be commissioned, may be paid in full compensation for receiving, safely keeping, and paying out such public money, at the rate of one-half of one per centum for the first one hundred thousand dollars; one-fourth of one per centum for the second one hundred thousand dollars; and one-eighth of one per centum for all sums over two hundred thousand dollars. Any sum which may have been allowed to such depositary for rent or any other contingent expenses in respect to the custody of such public money shall be deducted from such compensation, before any payment shall be made therefor.

Compensation of depositaries.

2 Mar., 1853, c. 89, s. 1, v. 10, p. 172.

20 June, 1874, c. 328, v. 18, p. 96.

3 Mar., 1875, c. 129, v. 18, p. 355.

Bachelor's Case, 8 C. Cls., 235.

SEC. 3656. No compensation shall be allowed for the services mentioned in the preceding section, when the emoluments of the office of which the designated depositary is in commission amount to the maximum compensation fixed by law; nor shall the amount allowed to any of the designated depositaries for such services, when added to the emoluments of the office of which he is in commission, be more than sufficient to make the maximum compensation fixed by law.

Limit upon compensation.

2 Mar., 1853, c. 89, s. 1, v. 10, p. 172.

20 June, 1874, c. 328, v. 18, p. 96.

3 Mar., 1875, c. 129, v. 18, p. 355.

SEC. 3657. The collectors of customs in the several collection-districts are required to act as disbursing agents for the payment of all moneys that are or may hereafter be appropriated for the construction of custom-houses, court-houses, post-offices, and marine hospitals; with such compensation, not exceeding one-quarter of one per centum, as the Secretary of the Treasury may deem equitable and just. [See § 255.]

Collectors to act as disbursing agents.

12 June, 1853, c. 154, s. 17, v. 11, p. 327.

SEC. 3658. Where there is no collector at the place of location of any public work specified in the preceding section, the Secretary of the Treasury may appoint a disbursing agent for the payment of all moneys appropriated for the construction of any such public work, with such compensation as he may deem equitable and just.

Appointment of special disbursing agents, where no collector is authorized.

23 July, 1866, c. 302, v. 14, p. 341.

SEC. 3659. All funds held in trust by the United States, and the annual interest accruing thereon, when not otherwise required by treaty, shall be invested in stocks of the United States, bearing a rate of interest not less than five per centum per annum.

Investment of trust-funds.

11 Sept., 1841, c. 25, s. 2, v. 5, p. 465.

42174

COPY

STATE OF MINNESOTA

566224

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Faye V. Peterson,

Plaintiff,

-vs-

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

Defendants.

The above-entitled matter came duly on for
hearing before the Hon. Irving R. Brand, one of the
judges of the above-named Court, on January 7, 1965,
in the Court House, City of Minneapolis, County of
Hennepin, State of Minnesota.

APPEARANCES

James P. Rorris, Esq., and Robert W. Dygert,
Esq., appeared as counsel for and in behalf of
Plaintiff.

Jerome Daly, Esq., appeared as counsel for
and in behalf of Defendant Palmer A. Peterson.

Paul L. Halverson, appeared pro se.

1 THE COURT: This matter is before the Court
2 with respect to a number of items.

3 The first one that will be taken up will be
4 that fixed by the Amended Findings of Fact and Conclusions
5 of Law, etc., made by me on December 4, 1964.

6 It set down for hearing before me on December
7 15, certain matters to be heard, namely, the nature and
8 value of the trust assets then held by Defendant Paul L.
9 Halverson, and the distribution to be made thereof,
10 and secondly, the attorneys' fees to be allowed to
11 plaintiff.

12 On December 15 there was no appearance by
13 Defendant Palmer Peterson, nor was there any appearance
14 by Defendant Paul L. Halverson, personally, nor was there
15 any appearance by any attorney on their behalf.

16 The matter was continued until December 31.

17 MR. DYGERT: First to December 16 and then to
18 December 31, as I recall it.

19 THE COURT: Possibly to December 16, then to
20 December 31, for a hearing on those matters, among other
21 things.

22 The file discloses that an affidavit of
23 prejudice by Defendant Palmer A. Peterson was signed by
24 him, or acknowledged before a notary public on December
25 21, 1964; and the file discloses that the affidavit of

1 prejudice was served on the attorneys for the plaintiff
2 on December 26, 1964, and was filed in the office of
3 the Clerk of this court on December 28, 1964.

4 On December 31, 1964, Defendant Paul L.
5 Halverson appeared personally and advised the Court he
6 was not represented by any attorney, and Defendant
7 Palmer A. Peterson did not appear, but Jerome Daly
8 advised the Court that he was the attorney for Defendant
9 Palmer A. Peterson and that he was representing him.

10 MR. DALY: I think you are mixed up on your
11 dates. On December 31, my brother, Robert Daly, appeared.

12 THE COURT: I am sorry.

13 MR. DALY: And submitted a motion.

14 THE COURT: He did not submit a motion.

15 MR. DALY: He submitted a letter to you, did
16 he not?

17 THE COURT: Yes. He submitted a letter from
18 you.

19 The Court wishes to correct the matter. On
20 December 31 -- what is your brother's name?

21 MR. DALY: Robert.

22 THE COURT: Robert Daly appeared and advised
23 the Court that he was representing his brother for a
24 limited purpose.

25 MR. DALY: That is right.

1 THE COURT: And presented to the Court a
2 letter from Jerome Daly, dated December 26, in which he
3 advised the Court, among other things, which is on file
4 herein, that an affidavit of prejudice had been filed
5 against me, and that his client was taking the position
6 that the only authority that I had was to consider the
7 motion for amended findings which had theretofore been
8 filed by Defendant Palmer Peterson through his attorney.

9 The continuance of the matters which the
10 Court heretofore referred to, from December 15, and possibly
11 December 16, to December 31, was made at the request of
12 Jerome Daly, who advised the Court that he was representing
13 Palmer Peterson.

14 The matter came before the Court again on
15 January 4.

16 MR. DALY: Excuse me, a minute. Am I correct
17 that Robert Daly submitted this motion and asked for
18 20 days, on the 31st?

19 THE COURT: Yes.

20 He requested 20 days in which to file briefs.
21 The Court made no comment with respect to that.

22 On January 4, 1965, the Defendant Paul L.
23 Halverson -- The Court wishes to correct that. On
24 December 31, the only appearance was made as I indicated
25 by Robert Daly.

1 On January 4, 1965, Defendant Paul Halverson
2 did appear personally and advised the Court he was
3 not represented by counsel.

4 Jerome Daly appeared and advised the Court that
5 he was representing Defendant Palmer Peterson. Defendant
6 Palmer Peterson was not present in court.

7 And Mr. Daly advised the Court he was taking
8 the position set forth in his letter of December 26, 1964.

9 Now, the matter of the nature and extent of
10 the trust assets and the location of the trust assets,
11 and the matter of attorneys' fees, as I have indicated,
12 is now before the Court.

13 The first question that arises is whether or
14 not, by virtue of the affidavit of prejudice which was
15 heretofore filed by Defendant Palmer Peterson, I am
16 deprived of the power to consider the matter of the trust
17 assets and the distribution to be made thereof and the
18 matter of reasonable attorneys' fees.

19 So that is the first thing we will take up.

20 Since Mr. Daly is the moving party in that
21 respect, I will hear him first.

22 MR. DALY: Well, Your Honor, I take the
23 position that M.S.A. 542.16 --

24 THE COURT: What was that?

25 MR. DALY: M.S.A. 542.16. I have a brief in the

1 matter, which I submit in that regard.

2 M.S.A. 542.16 states specifically: "Any party,
3 or his attorney, to a cause pending in a district court,
4 on or before ten days prior to the first day of a general,
5 or five days prior to a special, term thereof, or, in
6 any district having two or more judges, within one day
7 after it is ascertained which judge is to preside at the
8 trial or hearing thereof, or at the hearing of any motion,
9 order to show cause, or argument on demurrer, may make
10 and file with the clerk of the court in which the action
11 is pending and serve on the opposite party an affidavit
12 stating that, on account of prejudice or bias on the part
13 of such judge, he has good reason to believe, and does
14 believe, that he cannot have a fair trial or hearing
15 thereof, and thereupon such judge shall forthwith, without
16 any further act or proof, secure some other judge of the
17 same or another district to preside at the trial of such
18 cause or the hearing of the motion, demurrer, or order
19 to show cause, and shall continue the cause on the
20 calendar, until such judge can be present."

21 I don't think there is any question but what
22 that disqualifies you from presiding in this matter
23 further.

24 It is to be noted in this case that the judgment
25 and decree were entered here on December 7, 1964, by the

1 clerk.

2 Now, I take the position when that judgment
3 and decree were entered the file is properly back in
4 the hands of the clerk, in the clerk's office, and the
5 matter is out of your hands. Once you make your findings
6 of fact, conclusions of law and order for judgment, then
7 the clerk enters a judgment.

8 Now, 546.27, "Trial by Court: Decision, how
9 and when made: When an issue of fact has been tried by
10 the court, the decision shall be in writing, the facts
11 found and the conclusions of law shall be separately
12 stated, and judgment shall be entered accordingly. All
13 questions of fact and law, and all motions and matters
14 submitted to a judge for his decision, shall be disposed
15 of and his decision filed with the clerk within five
16 months after such submission, unless sickness or casualty
17 shall prevent, or the time be extended by written consent
18 of the parties. No part of the salary of any judge shall
19 be paid unless the voucher therefor be accompanied by a
20 certificate of the judge that he has fully complied with
21 the requirements of this section."

22 The law is clear and the cases are clear on
23 that, that when the trial is over with, the Court shall
24 find on the issues framed by the pleadings.

25 Now, this was a simple case. The Court, No. 1,

1 could have decided who was entitled to the divorce; No.
2 2, who was entitled to custody according to the complaint;
3 No. 3, how much permanent alimony plaintiff was entitled
4 to; No. 4, how much support she was entitled to; No. 5,
5 how much attorneys fees were the attorneys entitled to;
6 right down the line. The Court could have made his
7 decision and ended the matter right there.

8 Under the Constitution of Minnesota, the Bill
9 of Rights, Article I, Section 8, states specifically
10 that every person shall have a certain remedy in the laws
11 for all injuries to his person, property or character; that
12 he obtain justice freely without purchase, completely
13 without denial, promptly, without delay, conformable
14 to the laws.

15 Now, this case, and of course I am not
16 familiar with it, but it has been dragged out over a period
17 of two years.

18 We are taking the position that this Court
19 cannot enter judgment and reserve jurisdiction on
20 certain facts or certain conclusions. It has got to
21 come to a decision made on the evidence.

22 This Court cannot lawfully retain jurisdiction
23 of this man's accounts, how much he is to pay or what
24 he is to pay. When this Court does, it in effect holds
25 control over the man. And if you are going to hold

1 control over the man, then he becomes a slave.

2 I notice in this file there are lots of
3 motions telling him how to keep books, that he has got
4 to keep books, how he is supposed to bill his clients,
5 when he is supposed to bill them, how he is supposed to
6 do it, and he is to send out bills regularly.

7 Well, there is no court in this land can make
8 a man work. There is no court that can make a man keep
9 books. There is no court that can make a lawyer or
10 doctor send a bill out to a client. That is just beyond
11 the jurisdiction of the court.

12 This man has got certain rights under the
13 Declaration of Independence and the Constitution of
14 the United States. His rights, as I see it, and what is
15 attempted to be done here, have been infringed upon.

16 Now, there is nothing in this case that another
17 judge can't decide, nothing.

18 No. 2: The order to show cause served on
19 Palmer Peterson, I think it was on the 9th of November,
20 says he is ordered that on the 17th day of November, 1964,
21 at 9:30 o'clock A.M. -- it says, before the undersigned,
22 one of the judges of the above-named court, the Defendant
23 Palmer A. Peterson shall personally appear and show cause,
24 if any he has, why the court should not --

25 THE COURT: That isn't the matter we are going

1 into now.

2 At this point I am concerned with the two
3 matters that I reserved jurisdiction over, namely,
4 the trust and the attorneys' fees.

5 MR. DALY: Well, we will take up the attorneys'
6 fees first. That is the most simple. There is nothing
7 about the matter of attorneys' fees that cannot be
8 decided by another judge. They present their evidence
9 and he comes to a decision based upon the file and on the
10 evidence.

11 So far as the trust is concerned, there is
12 nothing about that trust that can't be decided by
13 another judge, nothing. The nature and extent of the
14 trust, and where it is at, could be easily decided by
15 another judge. It is just that simple.

16 THE COURT: When must an affidavit of prejudice
17 be filed, Mr. Daly?

18 MR. DALY: The statute --

19 THE COURT: Let's get to the Rules of Civil
20 Procedure.

21 MR. DALY: Those Rules, by the way, are
22 unconstitutional.

23 I want the record to note my objection to them
24 on that ground.

25 It is an unlawful delegation of the legislative

1 power of this State to the Supreme Court, in violation
2 of the separation of powers. I think it is Article III
3 of the Minnesota Constitution.

4 We take the position the Supreme Court cannot --
5 it is a separate court, it cannot enact and legislate
6 rules for the district court. It is a legislative power
7 which they have no right to assume. They can only assume
8 a judicial power.

9 THE COURT: This is the most novel argument I
10 have ever heard in my life.

11 MR. DALY: Is that right?

12 THE COURT: But go ahead.

13 MR. DALY: Well, there are several good
14 solid grounds why they can't do that.

15 The Constitution of Minnesota invests in
16 the Supreme Court only a judicial power. The purpose
17 of the separation of powers is so that the judiciary
18 can remain free and independent of other branches of the
19 government in deciding disputes coming before them.
20 When the judiciary starts enacting laws and legislating
21 for the people of this State and then they have to pass
22 upon these laws when they come before them, they are
23 exercising two separate powers, and when these laws come
24 before them they have got to pass judgment upon something
25 that they have enacted. There is a consideration which

clouds their judicial integrity and decision in that they have to rule upon their own legislation.

THE COURT: When must an affidavit of prejudice be filed?

MR. DALY: The statute -- well, Rule 63, I think, follows the statute.

THE COURT: Insofar as the two matters that I set down for hearing on December 15, and which were continued until the 31st, when must an affidavit of prejudice be filed?

MR. DALY: It says, "five days prior to a special term or a day fixed by notice of motion, at which the trial or hearing is to be had, or, in any district having two or more judges, within one day after it is ascertained which judge is to preside at the trial or hearing."

THE COURT: Does the Fourth Judicial District have more than two judges?

MR. DALY: Oh, yes. I believe there is 18, 20, now, isn't there?

THE COURT: And was Defendant Palmer Peterson served with a copy of my Amended Findings?

MR. RORRIS: Yes.

MR. DYGERT: I think the record should show, Your Honor, that Defendant Palmer Peterson was personally

1 served with a copy of your Amended Findings, Conclusions
2 of Law and Order for Judgment dated December 4, 1964,
3 to which was attached a notice of filing of that document
4 and a notice that the plaintiff would assert a motion at
5 the time and place stated in the order for distribution
6 of all of the trust assets to her and for the allowance
7 of attorneys fees, the two matters that the Court
8 mentioned. These were personally served upon Defendant
9 Palmer A. Peterson on December 7, 1964.

10 In addition to that, on the same day, a copy
11 of the notice of filing, with the Court's order attached,
12 was sent and served by mail upon Desmond Pratt, who was
13 then still the attorney of record for Dr. Peterson.

14 And in addition to that, a judgment and
15 decree was entered pursuant to the Court's order for
16 judgment and a certified copy of that was also served
17 upon Dr. Peterson.

18 THE COURT: There is an affidavit showing that
19 the copy of the Amended Findings of Fact were served
20 on Desmond Pratt, the attorney for Palmer Peterson, on
21 December 7.

22 Is there an affidavit of service with respect
23 to Palmer Peterson, as to service on him?

24 MR. DYGERT: Yes, Your Honor. That is not
25 in the short form, but it is in a longer page. Here it

1 is, Affidavit of Service.

2 THE COURT: Yes.

3 Indicating that the Amended Judgment and
4 Decree, Findings of Fact and so forth, were served on
5 Defendant Palmer A. Peterson on December 7, Mr. Daly.

6 I take it he then ascertained, did he not,
7 that the matter of the trust assets would be heard on
8 December 15.

9 I take it ^{he} then ascertained that the matter
10 was going to come before me on December 15.

11 On December 7 he was so advised by having
12 been served.

13 When would he have had to file an affidavit
14 of prejudice to disqualify me from hearing this?

15 MR. DALY: I would say, any time before the
16 hearing.

17 THE COURT: What does the statute provide?

18 MR. DALY: I don't care what the statute
19 says.

20 The Case of Payne versus Lee says:

21 "It is immaterial that the legislature has not expressly
22 included bias as a ground for disqualifying --" this
23 has reference to a probate judge -- "disqualifying a
24 probate judge in its statutory enactments. The provisions
25 of the constitution in this respect are self-executing.

1 Prohibitive clauses of a constitution are always self-
2 executing and require no legislative provisions for
3 their enforcement." Then it cites several cases.

4 MR. DYGERT: What is the citation?

5 MR. DALY: 222 Minn. 269, Payne v. Lee.

6 THE COURT: What did that case involve, Mr.
7 Daly?

8 MR. DALY: It involved a disqualification of
9 a probate judge where there was no statute providing
10 for the disqualification of a probate judge.

11 It goes on to say: "A concept of judicial
12 administration which leads one to assume that --"

13 THE COURT: What is that citation?

14 MR. DALY: 222 Minn. 269.

15 "A concept of judicial administration which
16 leads one to assume that justice can be obtained
17 'completely and without denial' before a tribunal
18 that is partial, biased, or hostile is certainly one
19 alien to our institutions. If we were to assume that
20 complete justice could with any likelihood be so
21 dispensed, it would be a justice which commanded
22 neither the respect nor the confidence of the citizen."
23 And it cites several other cases.

24 I believe they also say in here that where
25 bias and prejudice is shown, the Court has no power to

1 exercise its jurisdiction.

2 "Bias disqualifies a judge, whether it be
3 born of a selfish or pecuniary interest in the outcome
4 of the suit or of an overpowering personal spleen
5 directed toward one of the litigants. Neither the cause
6 of, nor the motive for, the bias is of any consequence.
7 It is enough if bias from any cause deprives a judge of
8 his impartial status."

9 "If bias is present a probate judge
10 has no power to exercise his jurisdiction in violation
11 of the Constitution or in violation of any statute
12 enacted pursuant thereto."

13 THE COURT: What page is that on?

14 MR. DALY: Page 277.

15 And the case that I cited in my letter to
16 you, Wiedemann v. Wiedemann, holds that: "A litigant,
17 though mistaken in fact, may conceivably assert with
18 sincerity that he has good reason to believe, and does
19 believe, that a judge is biased, and when he so believes
20 his cause should be heard before another judge, if
21 for no other reason than that confidence in the impartial
22 administration of justice is essential to the
23 preservation of any democratic government."

24 This is important: "When the impartiality
25 of a judge is questioned, he need assert no defense of

1 his judicial integrity other than a ready willingness
2 to leave the trial of the cause to another jurist."

3 I want the record to further show, we are
4 making a special appearance here for this purpose: We
5 take the position that the Court had no jurisdiction
6 to hear any matter here this morning.

7 THE COURT: All right. Are you through, Mr.
8 Daly?

9 MR. DALY: Yes.

10 MR. DYGERT: If the Court please, I would like
11 to invite the Court's attention to two cases. There
12 are many of them.

13 One is the Case of Baskerville v. Baskerville.
14 And on Page 501 of 268 Minnesota Reports, the court
15 used the following language, where a claim was being
16 made similar to what is being made this morning:

17 "In the instant case defendant went to trial
18 without taking any affirmative action whatever to
19 disqualify the substituted judge for bias, and she is
20 now in no position to complain. It is the duty of the
21 lawyer as an officer of the court to act in a timely
22 manner in asserting his client's right to disqualify
23 a judge for bias to the end that there may be no un-
24 necessary delay in the orderly administration of justice.
25 A litigant who, in the absence of fraud or other

1 controlling circumstances, elects to go to trial without
2 taking timely and appropriate action to disqualify a
3 judge for bias waives his right to assert such bias."

4 The other case that I think the Court would
5 be interested in is the Case of State Ex Rel. Peterson v.
6 Enersen, which is to be found in 195 Minn. at page 394 --
7 I beg your pardon. I don't have the beginning page.

8 But the page I want to call the Court's attention
9 to is Page 393, in which the one day rule is referred to.
10 It is pointed out in the last paragraph on that page:

11 "When the affidavit was filed it became the
12 duty of respondent to determine whether it had been filed
13 within one day after it had been ascertained by the
14 party in whose behalf it was filed that respondent would
15 preside at the trial. If not filed within such time
16 it is ineffectual for any purpose. The respondent's
17 finding that the affidavit was not filed in time must
18 be sustained."

19 We have a number of other cases, Your Honor,
20 but I think the matter is so clear that it would just
21 belabor --

22 MR. DALY: There is no question that it is
23 more than five days after the filing of the affidavit
24 here today. There is no question about that.

25 MR. DYGERT: The important rule is, one day

1 after it is determined who was to hear the matter.

2 And, in any event, I wouldn't think that
3 the affidavit would be timely under any circumstances,
4 Your Honor, because this is actually in respect to
5 this matter, in the middle of the trial. The Court has
6 not concluded its findings and its order in respect
7 to the matter of distribution of the trust.

8 This is a matter that has been going on here
9 for some two years and right at the end the Court is
10 asked to disqualify itself on the basis of an affidavit
11 of prejudice.

12 It is quite similar to the matter of State Ex
13 Rel. Pedersen v. Qvale, which is found in 187 Minnesota
14 Reports on Page 547.

15 The Supreme Court stated: "There is nothing
16 in that --" referring to a statute "-- indicating an
17 intent that upon the filing of an affidavit of prejudice
18 a judge who has tried a case must call in another to
19 review his actions at the trial. Such a construction
20 is unthinkable. The judge who tries the case to a
21 verdict must go through subsequent proceedings, except
22 as is otherwise provided by the statute;" -- and this
23 would have to do with motions -- "and, while it is
24 disagreeable to hear a motion for a new trial with an
25 affidavit of prejudice filed, it is still for the trial

1 court, unless disabled, to conclude the case before him."

2 Now, in this particular case it was held that
3 a writ of prohibition would issue against a judge who
4 recognized an affidavit of prejudice under these circumstances
5 after he had tried the case, and the party who objected
6 to it was held to be entitled to have the judge go
7 forward with the case. And the Supreme Court did issue
8 a writ of prohibition from transferring it to another
9 judge at that stage.

10 MR. DALY: I can't in all honesty and
11 sincerity, I can't see how they can maintain the words
12 "We are in the middle of trial here".

13 There has been evidence taken. The parties
14 rested. This Court made its findings of fact,
15 conclusions of law and order for judgment, and judgment
16 has been entered.

17 Now, just for the purpose of argument, let's
18 say that you died of a heart attack this afternoon, or
19 now. Could it be successfully maintained by me that
20 I would be entitled to a new trial on all issues? If the
21 judge dies in the middle of a trial there is a new trial
22 on all issues.

23 It is just that simple. Their position is
24 just absolutely untenable. The trial is over with.
25 There is a judgment entered. The matter is back in the

1 hands of the clerk.

2 MR. DYGERT: It is the same situation as it
3 was in the Pedersen Case that I just recited. The
4 evidence is in. The subsequent proceedings are being now
5 maintained.

6 THE COURT: Are we through? Have I heard
7 all the arguments?

8 MR. DYGERT: Yes.

9 MR. DALY: I think that is all I have to say.

10 MR. RORRIS: I would like to add a few more,
11 if I may, Your Honor.

12 THE COURT: I don't think it is necessary,
13 Mr. Rorris.

14 With respect to the matter of the nature and
15 extent of the trust assets and the disposition to be
16 made of the trust assets, and with respect to the matter
17 of reasonable attorneys' fees, the Court refuses to honor
18 the affidavit of prejudice filed by Defendant Palmer A.
19 Peterson on the following grounds: Those matters are
20 part and parcel of the trial of this case.

21 No affidavit of prejudice was filed by
22 Defendant Palmer A. Peterson prior to the commencement
23 of the trial in this case.

24 The matters referred to are matters with respect
25 to which the Court reserved jurisdiction when it made its

1 original findings of fact and conclusions of law. The
2 case has not been completed with respect to those matters.

3 The Court, in its findings and order of
4 December 4, 1964, specifically set down for hearing
5 the final stage of those matters for determination,
6 namely, the nature and extent of the trust assets and
7 the distribution to be made of the trust assets.

8 No other judge would be qualified, without
9 a new trial on those aspects, to make findings of
10 fact and conclusions of law and an order with respect
11 to those matters.

12 MR. DALY: May I ask a question?

13 THE COURT: No. I haven't completed my
14 statement.

15 So that the trial has not been completed,
16 the case has not been completed insofar as this Court
17 is concerned with respect to those matters.

18 Over and above that, under the Rules of
19 Civil Procedure, which the Court recognizes as being in
20 full force and effect, Defendant Palmer A. Peterson
21 learned, if not prior thereto, on December 7, 1964,
22 that the matter of the nature and extent of the trust
23 and the distribution to be made thereof would be heard
24 on December 15.

25 He at no time within one day from that time

1 filed an affidavit of prejudice against me, so that even
2 if this were a completely new matter the affidavit of
3 prejudice would be untimely.

4 So for those reasons the Court will proceed
5 to hear the matters now of the nature and extent of
6 the trust assets and the distribution to be made thereof
7 and the matter of reasonable attorneys' fees to be awarded
8 to the plaintiff.

9 MR. DALY: For clarification, I wasn't here
10 during the trial or any of the proceedings until the
11 4th of January, do you have a motion before you to reserve
12 jurisdiction in entering your judgment at any time?

13 THE COURT: I can't recall frankly, Mr. Daly.

14 The Court, however, irrespective of such
15 a motion, has inherent power to reserve jurisdiction to
16 make findings of fact with respect to the evidence
17 introduced before it.

18 MR. RORRIS: Your Honor --

19 MR. DALY: Wait until I get done and you can
20 go ahead.

21 Why was this case dragged out? It was started
22 two years ago. It was dragged out over two years.

23 THE COURT: That is not germane to the present
24 matter.

25 MR. DALY: I think it is. The Constitution

requires that justice be dispensed promptly and speedily.

THE COURT: I do not intend to give you a complete resume of this case. You will have to ascertain that from the record, from the file or any transcript of the proceedings.

MR. RORRIS: Your Honor --

THE COURT: There is nothing further to say at this point, Mr. Rorris.

MR. DALY: Let the record note an exception on the following grounds: No. 1, an affidavit of prejudice timely filed in this matter; No. 2, this Court first started the trial in this matter in December of 1962; Trial was dragged out through September and October of 1963, through April 20 of 1964, and August 13 of 1964;

Upon the ground that the Court has no jurisdiction to continue a matter this long and reserve jurisdiction for any purpose, as such activity is being in conflict with Article I, Section 8 of the Bill of Right of Minnesota and unconstitutional;

On the further grounds that the denial of justice is contrary to the 14th Amendment of the Constitution of the United States.

The Fifth Amendment of the Constitution of the

1 United States; it is contrary to the Declaration of
2 Independence and the rights secured by that instrument
3 which Declaration of Independence is incorporated by
4 reference into the Constitution of the United States
5 through the Ninth and Tenth Amendments of the Constitution
6 of the United States;
7

8 Upon the further grounds that this procedure
9 amounts to an oppression of Defendant Palmer A. Peterson;

10 Upon the further grounds that the Court has no
11 jurisdiction to hold in reserve or reserve jurisdiction
12 to make further orders concerning any property which
13 Defendant Palmer A. Peterson may own, which was not
14 proven at the trial in this matter;

15 On the further ground that the Court has no
16 jurisdiction to make any disposition of any amounts
17 collected from Defendant Palmer A. Peterson's practice
18 or reserve any jurisdiction for that purpose;

19 Upon the further grounds that the affidavit
20 of prejudice is, certainly as of this date, timely
21 filed, and terminates the power of Judge Irving Brand
22 to exercise the jurisdiction of the District Court of
23 Hennepin County, State of Minnesota.

24 THE COURT: May I see counsel at the bench
25 for just one moment?

(Off-the-record discussion at the bench.)

1 THE COURT: It is hereby ordered that the
2 matters set down for hearing in the Court's Findings
3 of Fact, Conclusions of Law and Order of December 4, 1964,
4 namely, the nature and extent and distribution of the
5 trust assets, and the matter of attorneys' fees to be
6 allowed to plaintiff, set forth in Paragraph 14 on
7 Page 6 of the Court's order, those matters shall be
8 heard on Wednesday, January 13, 1965, at 10:00 A.M.

9 With respect to the motions of the plaintiff
10 noticed for hearing on November 17, 1964, particularly
11 the order to show cause dated November 5, 1964, and signed
12 by me, and which motions were continued for hearing to
13 December 15, December 16, December 31, January 4, and
14 today, in view of the fact that there is some doubt in
15 the Court's mind as to whether or not even though the
16 affidavit of prejudice was not filed within one day
17 after Defendant Palmer A. Peterson ascertained that those
18 matters would be heard by me, the Court is in some doubt
19 as to whether or not, in view of the cases of Wiedemann
20 against Wiedemann, 228 Minn. 174, and Jones against
21 Jones, in 242 Minn. 251, where the Supreme Court in both
22 cases, even though an affidavit of prejudice was not
23 filed within one day or prior to five days of the time
24 set for hearing, where there was an indication to the
25 judge prior to the affidavit of prejudice being filed

1 that the particular client involved felt that he could
2 not have a fair hearing before that particular judge,
3 the Supreme Court seemed to bend over backward in
4 indicating that an affidavit of prejudice should be
5 honored by the judge.

6 The reasoning of the Supreme Court seems to
7 be that the confidence of litigants as well as the
8 public in our judicial system compels them to hold that
9 under controlling circumstances occurring in at least
10 one of those cases, the affidavit was timely and the
11 trial should have been assigned to another judge.

12 In one of those cases the Court went on
13 to say: "In this day of excellent communications, rapid
14 transportation, and adequate accommodations, the services
15 of another judge to try a cause, where an affidavit of
16 prejudice has been filed, can usually be secured without
17 delay or inconvenience."

18 Apparently it is the delay or inconvenience
19 that is occasioned by an untimely filing of an
20 affidavit that gives rise to an untimely affidavit of
21 prejudice not being honored. But in this jurisdiction
22 where there would be no delay or inconvenience by even
23 an untimely affidavit being filed, since we have a
24 number of other judges, it seems that apparently the
25 spirit of those cases would be fulfilled if the Court did

1 honor the affidavit of prejudice with respect to
2 the various motions made by plaintiff heretofore referred
3 to and if the Court assigned those matters to the clerk
4 for re-assignment to another judge. That can be done
5 forthwith.

6 MR. DYGERT: Yes. We will go right down on
7 that, Your Honor.

8 THE COURT: The Court hereby then orders
9 those motions to be referred to the assignment clerk,
10 or to the clerk, for re-assignment to another judge
11 of this court.

12 MR. DYGERT: In respect to the matter of
13 the hearing set for the 13th on the trust and attorneys'
14 fees --

15 THE COURT: I might say, the Court hereby
16 orders Defendant Paul L. Halverson, who is present here
17 in court -- you are not represented by an attorney,
18 Mr. Halverson?

19 MR. HALVERSON: No.

20 THE COURT: You are to report back to this
21 court on Wednesday, January 13, unless you are otherwise
22 advised by this Court not to appear.

23 MR. DYGERT: And if I may, Your Honor, I
24 should like to tell Mr. Halverson here in open court,
25 that I wish he would obtain an attorney and be

1 represented by an attorney in this matter, because
2 it is our sincere intention to hold him personally
3 liable for any dissipation there has been of these
4 trust assets, and I think he should know that. I
5 think it is fair to tell him.

6 MR. RORRIS: Your Honor, it has come to
7 my attention that Attorney Drexler of St. Paul is
8 also counsel or co-counsel with Jerome Daly in this
9 matter, and I would like to know if that is the case.

10 MR. DALY: I have no authority to make any
11 statement with reference to that.

12 MR. RORRIS: I see.

13 MR. DYGERT: I want to say, we intend to
14 hold Mr. Drexler personally liable on that matter, too.

15 THE COURT: The Court will not go into the
16 matter of whether or not any action taken by Mr.
17 Drexler frustrated the previous orders of this Court.
18 At this time the Court will not take those matters up.

19 I believe there is one further matter.
20 This Court has the inherent power to maintain the
21 status quo with respect to all previous orders made
22 by it. And pending any further/^{order}of this Court, the
23 Court hereby orders Defendant Palmer A. Peterson forthwith
24 to return to the trustee, Defendant Paul Halverson,
25 all trust assets obtained from the trustee subsequent

1 to the order of this Court of December 4, 1964.

2 It is further ordered that Defendant Palmer
3 A. Peterson shall refrain from, and all persons who
4 are his agents, employees, servants or otherwise under
5 his control shall also refrain from disposing, secreting,
6 transferring or otherwise dealing with the trust assets
7 heretofore referred to, other than to return them to
8 the trustee, Paul L. Halverson.

9 MR. DALY: May the record note an exception
10 to this order on the ground it is made by the Court
11 on the Court's own motion; upon the further grounds
12 that it is unconstitutional and void; upon the further
13 grounds that this Court has no authority by virtue of
14 the affidavit of prejudice to make such an order.

15 MR. DYGERT: Will the bench warrant for Dr.
16 Peterson continue in effect, Your Honor?

17 THE COURT: The bench warrant was issued
18 prior to any filing of an affidavit of prejudice, so
19 the affidavit of prejudice couldn't affect that.

20 MR. DALY: Well, I appear specially at this
21 time and move the bench warrant be quashed upon the
22 ground that the order --

23 MR. DYGERT: Well, --

24 MR. DALY: Wait until I get it out.

25 MR. DYGERT: I don't mean to interrupt, but

1 I think that that is a matter for hearing by the judge
2 to whom these motions are assigned, and should properly
3 be addressed to him.

4 And I want to tell counsel, it is our intention
5 to go immediately to the assignment clerk and seek
6 a hearing forthwith, as the Court has ordered, and I
7 want him to go with me for that purpose.

8 MR. DALY: I am going to make the motion
9 orally. This Court entered that bench warrant. I am
10 going to make a motion the Court quash the bench
11 warrant on the grounds that there is no place stated
12 in the order for Palmer A. Peterson to appear. It doesn't
13 tell him where in Hennepin County to appear. That is
14 a constitutional right with reference to the notice.
15 It is the order dated November 5, 1964.

16 THE COURT: Appear before the undersigned.

17 MR. DALY: It doesn't say where. No place
18 in that order does it say where, and there are two
19 places where they hold court right down here, one
20 across the street and one here.

21 THE COURT: In addition to that, of course,
22 there is the other order.

23 MR. RORRIS: There are other orders for him
24 to personally appear that he didn't appear on other
25 motions.

1 MR. DYGERT: He was served on December 7th.

2 THE COURT: The bench warrant will be stayed,
3 not quashed, but will be stayed until the motions are
4 heard before the other judge. At that time, Mr. Dygert,
5 you can ask for vacation of the stay of the bench
6 warrant.

7 MR. DYGERT: All right.

8 THE COURT: Since they are part and parcel
9 of those motions.

10 MR. DYGERT: At this time the bench warrant
11 is stayed?

12 THE COURT: It is stayed until the motions
13 and the request for vacating the stay are heard by
14 another judge.

15 -D-

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Petitioner Epps
80 thru 87

PETITIONER'S EXHIBIT 80
2/12/70 L.M.F.

42174

PALMER A. PETERSON, M.D.
GENERAL SURGERY

TOWN AND COUNTRY CENTER
7000 PORTLAND AVENUE

January 1965

~~CONFIDENTIAL~~

TO ALL MY PATIENTS:

I believe that the following information should be made available to you at this time and I am asking your support and cooperation.

I have been held in unjust legal proceedings in Judge Irving Brands Court in Minneapolis for several years. Opposing Attorney James P. Morris of Minneapolis began this case almost four years ago that should have not been started by him. At that time he reportedly stated to another attorney that "he was going to blow this up into a big case" which, of course, is unethical and unprofessional. He enlisted the help of another attorney, Robert Dygert, of the firm of Dygert and Gunn (son of Judge Gunn). The Judge allowed the Actual Trial of the case to break my Children's Trust Fund to continue off and on for over two years. Now at the end of this time the above attorneys have filed a claim for attorney fees for themselves in the amount of \$56,000.00. Yes, the figure is Thirty-six Thousand Dollars, which is the exact value of the Trust Fund I had set up for my children's education and their needs. In my opinion these actions reveal the intentions of the attorneys and the court in this matter.

This was a simple Trust Fund and I believe a very simple legal matter that probably could have been disposed of in court in a matter of several days, instead of several years. In my opinion these merits and facts in the case, and the children, were completely ignored in favor of the financial interests of the attorneys and the court. My attorney reported to me that the Judge made this statement to him before the Judge had any knowledge of the case--Quote: "How can Dr. Peterson bear to see all his finances go up in smoke?"

There are many other questionable activities and decisions which have been asked by the attorneys and the court. For instance, I was even approached for a bribe. Attorneys Morris and Dygert have interfered with my visitation rights with my children in contempt of the court orders. Attorney Morris falsely stated at no time that he had a court order that I could not see my children. Also I have been paying about \$650.- \$900.00 per month and still my visitation rights with my children have been ignored by the Court and the Department of Court Services. As a matter of fact, they did nothing about a "man" visiting in my children's presence at their home who had homosexual characteristics of painting his fingernails, using makeup, and carrying a tiny dog inside his sweater and so forth. Yet My visitation rights with my own children have been ignored for almost four years by the Judges. Much more information could be reported, but I feel this is sufficient to clarify my position.

Any payment by you or information about accounts other than my office will only promote and prolong these unjust actions and prevent us from returning to full-time practice. You might receive garnishment papers for your accounts by the above attorneys -- to help pay the ridiculous attorneys' fee.

I am asking your cooperation to help stop this unjust proceeding. Please mail your payment only to my office or Box 1503, St. Paul, Minnesota.

Thanking you for your understanding and consideration, I remain:

Sincerely yours,

Palmer A. Peterson
Palmer A. Peterson, M.D.



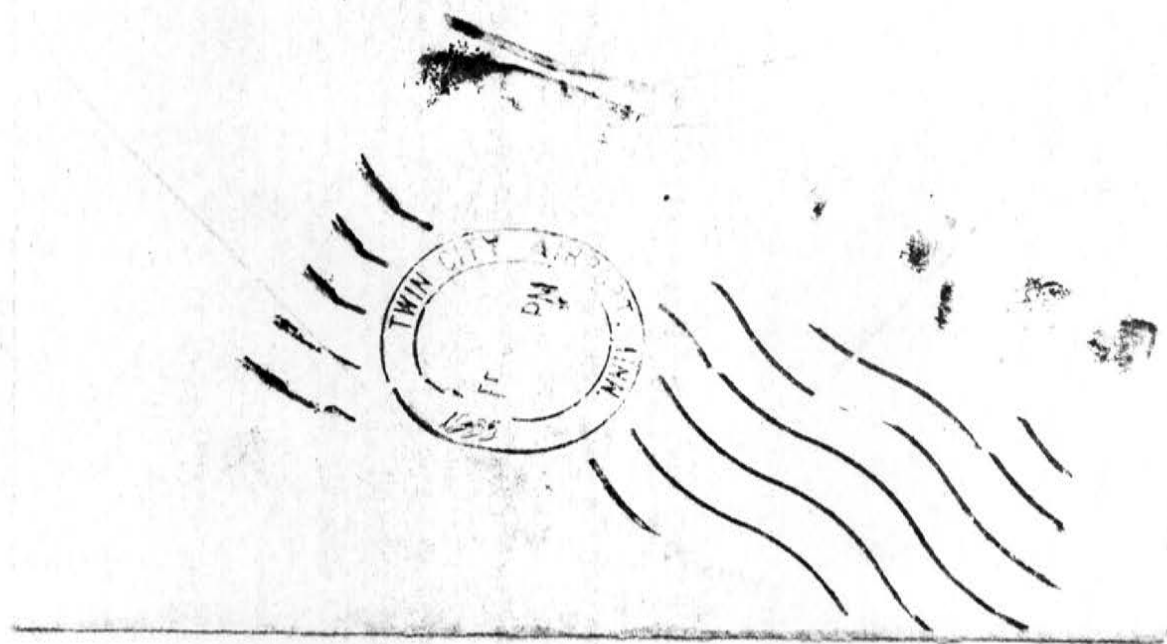
5
POSTAGE DUE CENTS

PETITIONER'S EXHIBIT 29
2/2/70 L.M.F.
42174

PALMER A. PETERSON M.D.
P.O. BOX 1503
ST. PAUL, MINN. 55111

PLAINTIFF'S
EXHIBIT 31
H. J. STASIK

Petitioner's



PETITIONER'S EXHIBIT 81
2/12/70 L.M.F.

PLF'S EX,
Keith Scheld, Reporter

PLAINTIFF'S
EXHIBIT 34
H. J. STAGG

42174

DATE 6

RECEIVED FROM (Name of patron) <i>Ogman Winger</i>		RENT FOR (Box No.) <i>1582</i>
FOR PERIOD ENDING (Date) <i>March 31-65</i>	AMOUNT RECEIVED <i>\$ 3.00</i>	DATING STAMP
PAYMENT RECEIVED BY (Initials of Postmaster or Accepting Clerk) <i>[Signature]</i>		

POD FORM 1538 BOX RENT RECEIPT
JAN. 1962

DUPLICATE 46

RECEIVED FROM (Name of patron) <i>William E. Dwyer</i>		RENT FOR (Box No.) <i>1503</i>
FOR PERIOD ENDING (Date) <i>June 30, 1965</i>	AMOUNT RECEIVED <i>\$ 4.00</i>	DATING STAMP
PAYMENT RECEIVED BY (Initials of Postmaster or Accepting Clerk) <i>[Signature]</i>		

POD FORM 1538 BOX RENT RECEIPT
JAN. 1962

DUPLICATE 7

RECEIVED FROM (Name of patron) <i>Calvin Hugh</i>		RENT FOR (Box No.) <i>1611</i>
FOR PERIOD ENDING (Date) <i>Mar-31-65</i>	AMOUNT RECEIVED <i>\$ 3.00</i>	DATING STAMP
PAYMENT RECEIVED BY (Initials of Postmaster or Accepting Clerk) <i>[Signature]</i>		

POD FORM 1538 BOX RENT RECEIPT
JAN. 1962

DUPLICATE 47

RECEIVED FROM (Name of patron) <i>AT Angel</i>		RENT FOR (Box No.) <i>1572</i>
FOR PERIOD ENDING (Date) <i>Mar 31-65</i>	AMOUNT RECEIVED <i>\$ 2.00</i>	DATING STAMP
PAYMENT RECEIVED BY (Initials of Postmaster or Accepting Clerk) <i>[Signature]</i>		

POD FORM 1538 BOX RENT RECEIPT
JAN. 1962

DUPLICATE 8

RECEIVED FROM (Name of patron) <i>Wm E. Dwyer</i>		RENT FOR (Box No.) <i>1503</i>
FOR PERIOD ENDING (Date) <i>12-31-64</i>	AMOUNT RECEIVED <i>\$ 1.50</i>	DATING STAMP
PAYMENT RECEIVED BY (Initials of Postmaster or Accepting Clerk) <i>W.K.</i>		

POD FORM 1538 BOX RENT RECEIPT
JAN. 1962

DUPLICATE 48

RECEIVED FROM (Name of patron) <i>Elizabeth J. Stewart</i>		RENT FOR (Box No.) <i>1502</i>
FOR PERIOD ENDING (Date) <i>June 30th</i>	AMOUNT RECEIVED <i>\$ 4.50</i>	DATING STAMP
PAYMENT RECEIVED BY (Initials of Postmaster or Accepting Clerk) <i>[Signature]</i>		

POD FORM 1538 BOX RENT RECEIPT
JAN. 1962

DUPLICATE 9

RECEIVED FROM (Name of patron) <i>W. A. Lines Cr. Co.</i>		RENT FOR (Box No.) <i>1571</i>
FOR PERIOD ENDING (Date) <i>June 30th</i>	AMOUNT RECEIVED <i>\$ 6.00</i>	DATING STAMP
PAYMENT RECEIVED BY (Initials of Postmaster or Accepting Clerk) <i>[Signature]</i>		

POD FORM 1538 BOX RENT RECEIPT
JAN. 1962

DUPLICATE 49

RECEIVED FROM (Name of patron)		RENT FOR (Box No.)
FOR PERIOD ENDING (Date)	AMOUNT RECEIVED <i>\$</i>	DATING STAMP
PAYMENT RECEIVED BY (Initials of Postmaster or Accepting Clerk)		

POD FORM 1538 BOX RENT RECEIPT
JAN. 1962

DUPLICATE 10

RECEIVED FROM (Name of patron) <i>[Signature]</i>		RENT FOR (Box No.) <i>1534</i>
FOR PERIOD ENDING (Date)	AMOUNT RECEIVED	DATING STAMP

DUPLICATE 50

RECEIVED FROM (Name of patron)		RENT FOR (Box No.)

FOR POST OFFICE USE ONLY	POSTMASTER	DATE BOX OPENED	DATE BOX CLOSED	BOX NO.
	<i>W. J. Stasik</i>	12-10-64		1503

APPLICANT PLEASE NOTE: Completion of this application signifies your willingness to comply with all postal rules relative to the renting and use of Post Office boxes.

NAME OF APPLICANT (Print or type)

WILLIAM L DREXLER

NAME OF FIRM OR CORPORATION (If box is rented for use of either)

ILL STATE C.A.

KIND OF BUSINESS

COLLECTIONS A LAWYER

BUSINESS ADDRESS (No., street, and zone)

311 ST. PETER STREET ST. PAUL 2 MINN

HOME ADDRESS (No., street, and zone)

1907 16TH AVENUE ST. PAUL MINN

SIGNATURE OF APPLICANT

X William L Drexler

DATE OF APPLICATION

12 10 64

PLAINTIFF'S
EXHIBIT 33
M. J. STASIK

For Post Office Use Only ENTERED IN DIRECTORY	INITIALS OF CLERK	INITIALS OF CARRIER	BOX NO.

THE FOLLOWING MUST BE COMPLETED AND SIGNED BEFORE P.O. BOX IS ASSIGNED

DELIVER MAIL IN ACCORDANCE WITH INSTRUCTIONS CHECKED BELOW

- ☐ ALL EXCEPT SPECIAL DELIVERY IN BOX ☐ ALL INCLUDING SPECIAL DELIVERY IN BOX ☒ ONLY MAIL ADDRESSED TO BOX IS TO BE PLACED IN IT. ALL OTHER MAIL TO BE DELIVERED AS ADDRESSED.
- ☐ OTHER INSTRUCTIONS (Explain)

SPECIAL DELIVERY MAIL ONLY (Deliver as checked below)

- ☒ DELIVER TO LOCAL RESIDENCE AT ☐ DELIVER TO LOCAL BUSINESS ADDRESS AT

1907 16TH AVENUE
ST PAUL (No., street, and zone)

(No., street, and zone)

NAMES OF PERSONS ENTITLED TO RECEIVE MAIL THROUGH BOX (If box is rented to a firm, include the full name of each of its members whose mail is to be placed in box.)

William A. Peterson, MD
All mail addressed to Bx

☒ HAVE READ ITEMS 1 THROUGH 5, ABOVE AND WILL COMPLY WITH THEM.

X William L Drexler
(Signature of applicant)

POD FORM 1093
JULY 1960

APPLICATION FOR POST OFFICE BOX

U.S. GOVERNMENT PRINTING OFFICE 16-47420-7

PETITIONER'S EXHIBIT
2/12/70 L.M.F.

42174

Petitioner's Exhibit 15



PLAINTIFF'S

EXHIBIT

M. J. STARK

WASHINGTON FEDERAL SAVINGS

AND LOAN ASSOCIATION OF STILLWATER
STILLWATER, MINN.

20981

75-41
912

December 8, 1964

PAY

TO THE
ORDER
OF

Palmer A. Peterson

Remm: Paul L. Halverson, Trust.
for Alette, Peterson

WASHINGTON FEDERAL SAVINGS AND LOAN
ASSOCIATION OF STILLWATER

Katherine G. Gini
AUTHORIZED SIGNATURE

THE FIRST NATIONAL BANK
STILLWATER, MINNESOTA

PETITIONER'S EXHIBIT 83
2/17/70 L.M.F.
42174

*M.D.
Stroger*

PAY ANY BANK, P.E.C. DEC 17-2
MINNEAPOLIS PAY ANY BANK - P.E.C.

DEC 9 64 44022

FIRST NATIONAL BANK
17-2 MINNEAPOLIS, MINN. 44

PAY ANY BANK, P.E.C. 17-8 1-1 1964
FNB MINNEAPOLIS

DEC 9

Richard A. Peterson
DEC 9 1964

78 Petitioner's Exhibit

16543
 Account No. [REDACTED]
 Paul L. Trustee for
 (To be typed) (Surname) (First Name) (Middle Name)
 (1) Alvin Peterson, Peter E. Peterson, Hilmer J.
 (2) Peterson
 (3)

PLAINTIFF'S
 EXHIBIT 7
 H. J. STASIK

The undersigned hereby apply for a membership and for a share account in the
WASHINGTON FEDERAL SAVINGS AND LOAN ASS'N OF STILLWATER
 and for the issuance of evidence of membership in the approved form in the joint names of the undersigned
 as joint tenants with the right of survivorship and not as tenants in common. Receipt is hereby acknowl-
 edged of a copy of the charter and by-laws of said association. Specimens of the signatures of the undersig-
 ned are shown below and the association is hereby authorized to act without further inquiry in accordance
 with writings bearing any such signature; it being understood and agreed that any one of the undersigned
 who shall first act shall have power to act in all matters relating to the membership and any share account
 in said association held by the undersigned, whether the other person or persons named in the certificate be
 living or not. The purchase or redemption value of any such share account or other rights relating thereto
 may be paid or delivered in whole or in part to any one of the undersigned, who shall first act, and such pay-
 ment or delivery or a receipt or acquittance signed by any one of the undersigned shall be valid and suffi-
 cient release and discharge of said association.

Signature _____ (To be typed) _____
 Street Address _____ Street Address _____
 City and State _____ City and State _____
 Dated Jan. 31, 1961 Introduced by _____

*The certificate issued pursuant to this application for membership of joint holders must be filled out by in-
 serting in the first blank space the names of the joint holders; for example, "John Doe and Richard Roe",
 immediately followed by the words: "as joint tenants with the right of survivorship and not as tenants in
 common". Joint tenants with the right of survivorship constitute one member as a partnership constitutes

Account No. [REDACTED]

(To be typed) (Surname) (First Name) (Middle Name)

I hereby apply for membership and a share account in the
WASHINGTON FEDERAL SAVINGS AND LOAN ASS'N OF STILLWATER
 and for issuance of evidence of membership in the approved form. Receipt is hereby
 acknowledged of a copy of the charter and by-laws of said association. A specimen
 of my signature is shown below and the association is hereby authorized to act
 without further inquiry in accordance with writings bearing such signature.

Signature _____
 Street Address _____ Telephone Number _____
 City and State _____ Occupation _____

Dated _____ Introduced by _____
 (a) Individual membership of share account holder.
 Form IC1—Application for Membership and Signature Card.
 MID-WEST PRINTING CO.

DEFENDER'S EXHIBIT 84
 2/15/70 JLM:P
 12174

Statis. Ex (C)
8-3-65 M.J.

PLF'S CO.
Selling Only, d. Reporter

WOODARD-ELWOOD & Co.

1115 FIRST NATIONAL BANK BUILDING
MINNEAPOLIS 2, MINNESOTA

December 8, 1964



RECEIVED FROM WOODARD-ELWOOD & COMPANY

55 shs

CANADIAN FUND, INC.

Capital Stock

Ctf JCO15674 @ 50 shs; JCO15675 @ 2 shs; NYO153414 @ 1sh

Ctf NYO143787 @ 1 sh; NYO161770 @ 1sh

n/o Paul L. Halverson as Trustee

186 shs

DIEBOLD, INCORPORATED

Common Stock

Ctf CC 797 @ 100 shs; CO3136 @ 5 shs; CO3409 @ 15 shs

Ctf CO3758 @ 2 shs; CO13748 @ 42 shs; CO8371 @ 6 shs;

CTF CO19825 @ 8 shs; CO27237 @ 8 shs

n/o Paul L. Halverson, as Trustee

100 shs

FIRST BANK STOCK CORPORATION

Common Stock

Ctf MO111637 @ 50 shs; SO102859 @ 50 shs

n/o Paul L. Halverson, as Trustee

123 shs

FIRST CHARTER FINANCIAL CORPORATION

Common Stock

Ctf L47453 @ 100 shs; LO69112 @ 3 shs; LO69391 @ 5 shs

Ctf LO85536 @ 5 shs; LO100282 @ 5 shs; DV10021 @ 5 shs

n/o Paul L. Halverson as Trustee

221 shs

THE ONE WILLIAM STREET FUND, INC.

Common Stock

Ctf B873/4 @ 100 shs each; CO239326 @ 8 shs;

Ctf BO580 @ 10 shs; CO275696 @ 3 shs

n/o Paul L. Halverson, as Trustee

50 shs

STANDARD OIL COMPANY OF NEW JERSEY

Common Stock

Ctf MF561609

n/o Paul L. Halverson, as Trustee

122 shs

UNION FINANCIAL CORPORATION

Common Stock

Ctf C5109 @ 100 shs; CO5428 @ 4 shs; CO6607 @ 4 shs

Ctf CO11114 @ 4 shs; CO14423 @ 4 shs; CO17472 @ 3 shs

Ctf CO20093 @ 3 shs

SIGNED

P. L. Halverson

PETITIONER'S EXHIBIT 85
2/12/70 L.M.F. 42174

SAVINGS ACCOUNT

Paul L. Halverson, Trustee, for Alois
Hansen, Peter H. Peterson, Wilmer J. Peterson

ACCOUNT
NO. [REDACTED]

ADDRESS

201 So. 4th St.

PLAINTIFF'S

EXHIBIT 8

M. J. STASIK

PROOF	SAVINGS ADDED	WITHDRAWAL	DATE	DIVIDENDS	BALANCE	MEMO
058.67	10,000.00 3		JAN 31 '61	66.67	10,000.00	
082.42	23.75 3		MAR 21 '61		10,023.75	
782.42		300.00 3	MAR 21 '61	64.82	9,723.75	
				64.82 +		
847.24			MAR 31 '61		9,788.57	
865.24	18.00 3		APR 10 '61		9,806.57	
			APR 10 '61		9,806.57	
865.54	.30 3		APR 10 '61		9,806.87	
881.29	15.75 3		JUN 8 '61		9,822.62	
581.29		300.00 3	JUN 8 '61	95.23	9,522.62	
656.04	74.75 3		JUN 14 '61		9,597.37	
				95.23 +		
3,751.27			JUN 30 '61		9,692.60	
0,053.67	302.40 3		JUL 10 '61		9,995.00	P
0,003.67		50.00 3	JUL 10 '61	99.45	9,945.00	
			SEP 15 '61		10,017.20	
0,075.87	72.20 3			99.45 +		
0,171.32			SEP 30 '61		10,116.65	
10,226.22	50.90 3		NOV 30 '61	101.34	10,167.55	
				101.34 +		
0,327.56			DEC 31 '61		10,268.89	
10,388.81	61.25 3		DEC 26 '61		10,330.14	
10,407.11	18.30 3		JAN 4 '62		10,348.44	
10,433.81	26.70 3		JAN 26 '62		10,375.14	
10,426.81		7.00 3	FEB 2 '62	103.60	10,368.14	

forward

PETITIONER'S EXHIBIT 86

2/12/70

L.M.F.

42174

SAVINGS ACCOUNT

3

Paul L. Halverson, Trustee for Alotta ACCOUNT NO. [REDACTED]
 Peterson, Peter H. Peterson, Hilmer J. Peterson
 204 S. 14th St., Stillwater, Minnesota

DATE	SAVINGS ADDED	WITHDRAWAL	DATE	DIVIDENDS	BALANCE	MEMO
			MAR 15 '63	92.31	9,295.84	
2,354.51	97.63 3			92.31+		
2,446.82			MAR 31 '63		9,388.15	
2,459.82		7.00 3	MAR 27 '63		9,381.15	
2,127.37		312.45 3	APR 29 '63		9,068.70	
2,172.32	44.95 3		MAY 31 '63		9,113.05	
2,045.32		127.00 3	MAY 31 '63		8,986.65	
8,845.32		200.00 3	MAY 31 '63		8,786.65	
8,815.32		30.00 3	MAY 31 '63		8,756.65	
8,904.92	89.60 3		JUN 14 '63		8,846.25	
7,951.32		953.60 3	JUN 14 '63		7,892.65	
6,956.32		995.00 3	JUN 17 '63	68.98	6,897.65	
7,025.30			JUN 30 '63	68.98+	6,966.63	
7,005.30			JUL 30 '63	69.47	6,946.63	
7,050.66	45.36 3		SEP 18 '63		6,991.99	
7,120.13				69.47+		
			SEP 30 '63	70.61	7,061.46	
				70.61+		
7,190.74			DEC 31 '63		7,132.07	
7,313.51	122.77 3		DEC 23 '63		7,254.84	
7,397.71	84.20 3		JAN 20 '64		7,339.04	
7,524.28	126.57 3		MAR 16 '64	73.53	7,465.61	
7,597.81				73.53+		
7,625.71	27.90 3		MAR 31 '64		7,539.14	
7,644.47	18.76 3		APR 20 '64		7,567.04	
7,734.87	90.40 3		JUN 15 '64	75.64	7,585.80	
7,810.51			JUN 18 '64	75.64+	7,676.20	
			JUN 30 '64		7,751.84	

(Forward)

SAVINGS ACCOUNT

Paul L. Halverson, Trustee, for Alotta ACCOUNT NO. [REDACTED]
 Halverson, Peter H. Peterson, Hilmer J. Peterson
 ADDRESS 201 S. 4th Street

3

Max 73.53 June 75.64

DEPOSIT	SAVINGS ADDED	WITHDRAWAL	DATE	DIVIDENDS	BALANCE	MEMO
7,830.37	19.86 3		SEP 8'64		7,771.70	
7,867.87	37.50 3		SEP 14'64	77.72	7,809.20	
				77.72+		
7,945.59			226.87 SEP 30'64		7,886.92	
8,004.03	58.44 3		OCT 21'64		7,945.36	
8,018.40	14.37 3		NOV 23'64		7,959.73	
8,061.30	42.90 3		DEC 7'64		8,002.63	
58.67			8,002.63 3 DEC 8'64		.00	

*Withd
 12-17-64
 [Signature]
 12-17-64*

PETITIONER'S EXHIBIT

2/12/70 L.M.F.

42174

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

FOURTH DIVISION

William E. Drexler,

Plaintiff,

-vs-

Stanley D. Kane, individually, and
as District Judge of the State of
Minnesota; Joe A. Walters, individu-
ally, and as Referee and Receiver;
James P. Morris and Robert W. Dygart;
and Dygart and Gumm, a partnership;
Sigurd A. Bertelsen, Postmaster;
United States of America; and
Faye V. Peterson,

Defendants.

TO: THE DEFENDANTS ABOVE-NAMED PERSONALLY:

YOU WILL PLEASE TAKE NOTICE that at the United States District
Court House in the City of Minneapolis on the 11 day of March, 1965,
at 7 o'clock A.M., before the Honorable James P. Morris,
one of the Judges of the above-named Court, in Court Room No. ,
Plaintiff will move the Court at said time and place or as soon thereafter
as counsel can be heard, for the following Orders:

1. Immediately directing you the said Defendants to deliver forthwith
to Plaintiff William E. Drexler, agent for Dr. Palmer A. Peterson, all mail and
other material sequestered from said mailbox;

2. Temporarily enjoining during the pendency of this action the
Defendants, and each of them, from any way interfering with the mail in Post
Office Box 1503 located at the Post Office, Air Port Terminal International
Airport, Wold Chamberlain Field, Minnesota; and also any other cause, in

Said Motion will be based upon all the files, records and proceedings
herein and upon the attached verified Complaint.

Jerome Daly
JEROME DALY
Attorney for Plaintiff
28 East Minnesota Street
Savage, Minnesota

Dated this 2nd day of March, 1965.

United States District Court

FOR THE

DISTRICT OF MINNESOTA - 4th DIVISION

CIVIL ACTION FILE NO. 4-59-CTM-59

William E. Drexler,

Plaintiff

v.

Stanley D. Kane, individually, and
as District Judge of the State of
Minnesota; Joe A. Walters, individu-
ally, and as Referee and Receiver;
James P. Morris and Robert W. Dygert;
and Dygert and Gunn, a partnership;
Sigurd A. Bertelsen, Postmaster;
United States of America; and
Faye V. Defendant Peterson,
Defendants

SUMMONS

To the above named Defendants :

You are hereby summoned and required to serve upon Jerome Daly

plaintiff's attorney, whose address is: 28 E. Minnesota Street
Savage, Minnesota

an answer to the complaint which is herewith served upon you, within sixty days after service
of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default
will be taken against you for the relief demanded in the complaint.

Frank A. Massey

Clerk of Court.

Judith C. Palmer

Deputy Clerk.

Date: March 2, 1965

[Seal of Court]

Note.—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

NOTICE OF RESAULT OF JURY

65 CIV 89

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71a1

That further this is an action brought under Title 28 Section 1343 "Civil Rights" United States Code Annotated to redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States and acts of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States.

III.

That by virtue of the Declaration of Independence, which is incorporated into the Constitution of the United States by the Ninth and Tenth Amendments thereto, all sovereign power is vested in and consequently is derived from the people. That the individual, and not the state, is the source and basis of our social compact, with a part of sovereignty residing in each individual. That the Defendant United States of America exists pursuant to the United States Constitution through a delegation by the people collectively, as a nation, of a portion of their governmental powers based upon their natural and inherent rights.

That the Defendant Sigurd A. Bertelsen is Postmaster of the United States Post Office, St. Paul, Minnesota, which post office is a department of the United States Government. That said Defendant Bertelsen is in charge of and has control of the certain Post Office Box 1503 located at the Post Office, Air Port Terminal International Airport, Wold Chamberlain Field, Minnesota.

IV.

That Defendant Stanley D. Kane is a Judge of the District Court, State of Minnesota. That Defendant Joe A. Walters is and has been acting as a Referee and Receiver of the District Court, Hennepin County, State of Minnesota, in a divorce action pending there entitled, "Faye V. Peterson vs. Palmer A. Peterson and Paul L. Halvorson" in which a Judgment has been entered. That Plaintiff herein, William A. Drexler, and Jerome Daly are attorneys for Dr. Palmer A. Peterson and have been during all times herein material. That Defendant James P. Morris, and Defendant Robert W. Dygert, doing business as Dygert and Gunn, have at all times herein material been representing, as attorneys, Plaintiff Faye V. Peterson, in the Hennepin County District Court and before the Defendant Referee Joe A. Walters. That the partnership of

Dygert and Gunn, of which Robert W. Dygert is a member, is also listed on all pleadings in the Hennepin County District Court which are material hereto.

V.

That the Defendant Faye V. Peterson is the prime principal with Defendants Robert W. Dygert and James P. Rorris acting as her agents, servants and attorneys. That the Defendant Faye V. Peterson is responsible for the acts, conduct and wrongdoing of the Defendants Robert W. Dygert and James P. Rorris hereinafter referred to.

VI.

That this action is also brought for the deprivation by the Defendants, and each of them, of Plaintiff's rights as secured by Amendment IV of the United States Constitution, to-wit:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

VII.

That the Defendants, and each of them, their agents and servants and other persons authorized at their direction did during the month of February, 1965 at various times commencing on or about January 26, 1965, and through and including February 17, 1965, did wilfully, wrongfully, maliciously, unlawfully and surreptitiously and without notice and acting in complete absence of jurisdiction under either State or Federal law and authority in law, or otherwise, did invade Plaintiff's mailbox located at the Post Office, Air Port Terminal International Airport, Wold Chamberlain Field, Minnesota; and did then and there take, seize, steal and carry away First Class United States mail addressed to and belonging to Plaintiff's client, Palmer A. Peterson, upon which mail Plaintiff had then and there an attorney's lien the said mail being the property and effects of Plaintiff's client upon which Plaintiff had a proprietary interest as lien claimant. That in aggravation of said invasion and theft, the Defendants Joe A. Walters, James P. Rorris and Robert W. Dygert did on February 15, 1965 hold a hearing in the office of the Defendant Joe A. Walters, and brought the mail into his office, who was then and there was

Walters, and brought the mail into his office, who was then and there was purportedly acting as Referee herein, all without notice to Plaintiff or to Dr. Palmer A. Peterson or his attorney, Jerome Daly. That in ordering said hearing the said Defendants acted wholly without jurisdiction under color of State law in depriving Plaintiff of his rights, privileges, immunities as secured by the Constitution of the United States and acts of Congress passed pursuant thereto.

VIII.

That in climax of this whole sordid mess hearing was held before Hennepin County District Judge Stanley D. Kane without notice to either Plaintiff or Palmer A. Peterson or his attorney, Jerome Daly, on February 17, 1965, a day of infamy, and did then and there, acting wholly without jurisdiction and authority opened approximately ninety-five (95) pieces of First Class mail out of said mailbox in the presence of, before, and at the direction of Defendant Stanley D. Kane and Defendant Joe A. Walters in open court being then and there moved by Defendants James P. Morris and Robert W. Dygert, who then and there were acting for their principal Defendant Faye V. Peterson. That the contents of said letters are still withheld and over objection of Palmer A. Peterson's attorney are in the possession of the Defendant Joe A. Walters and Defendant Stanley D. Kane, unaccounted for; that as an attempted intimidation of Plaintiff a trumped up contempt charge was issued on or about February 11th or 12th, 1965, and served on or about February 15th ordering Plaintiff to appear before the Court and show cause why he should not be held in contempt for matters completely without basis and foreign to the premises of the proceedings. That said contempt proceeding amounted to an aggravated assault upon Plaintiff as defined by law, statutory and common, which contempt proceeding is also intended to deprive Plaintiff of his rights, liberties and privileges, under color of State law, and amounted to supplemental aggravation of the invasion of Plaintiff's mailbox and the theft of his mail and money which amounted to some One Thousand Five Hundred and no/100ths (\$1,500.00) Dollars in negotiable instruments, including privileged mail between patient and physician; that in further aggravation of Plaintiff's injury the local newspaper of nation-wide circulation publicized in a conspicuous manner the

test of Defendants causing Plaintiff to be subjected to ridicule, humiliation, contempt, anguish and shame all to Plaintiff's damage for all of the wrongs, injuries, and usurpations as herein alleged, general, special, punitive and exemplary, in the sum of Five Hundred Thousand and no/100ths (\$500,000.00) Dollars.

WHEREFORE, Plaintiff demands judgment and orders as follows:

1. Against the Defendants Faye V. Peterson; Joe A. Walters; James P. Morris and Robert W. Dygert; Dygert and Gunn, a partnership; and Stanley D. Kane; Plaintiff demands judgment against them, and each of them, in the sum of Five Hundred Thousand and no/100ths (\$500,000.00) Dollars;
2. As against all Defendants, Plaintiff demands court order that they immediately return said seized and sequestered mail to the Plaintiff;
3. That they be temporarily enjoined during the pendency of this action from any way interfering with the mail in said mailbox 1503 located at the Post Office, Air Port Terminal International Airport, Wold Chamberlain Field, Minnesota;
4. Upon entry of judgment that they be permanently enjoined from interfering with said mailbox or its contents with said injunction to be included in final judgment;
5. For Plaintiff's costs and disbursements incurred herein.

Dated: March 2, 1965.

JEROME DALY
Attorney for Plaintiff
28 East Minnesota Street
Savage, Minnesota

STATE OF MINNESOTA)
) SS.
COUNTY OF SCOTT)

VERIFICATION

JEROME DALY, being duly sworn, says that he is the attorney for the Plaintiff in the above entitled action; that he has read the foregoing Complaint and knows the contents thereof; that the same is true to the best of his knowledge, information and belief; that the reason why this verification is not made by the Plaintiff is that he is absent from the State of Minnesota, wherein affiant resides.

JEROME DALY

Subscribed and sworn to before me
this 2nd day of March, 1965.

Notary Public

PLAINTIFF DEMANDS A TRIAL BY JURY OF TWELVE

CALDWELL PHILLIPS, INC.
INVESTMENT SECURITIES
ST. PAUL, MINN. 55101

PLAINTIFF'S
EXHIBIT 17
No. 3-57431K

Halspers DEFENSE
Keith, Schold, Reporter

12622

DEC 31 1964 19 ²²⁻⁷/₉₆₀

PAY TO THE ORDER OF *Paul L. Halspers* *Palmer A. Peterson* \$13167. ⁸⁶/₁₀₀

CALDWELL PHILLIPS, INC.
AN AUTHORIZED OFFICER

The AMERICAN NATIONAL BANK
of Saint Paul
SAINT PAUL, MINNESOTA

States Et Fm

R. A. Bark

22-7

ST. PAUL, MINN.

12

PAUL

DEFENDANT'S EXHIBIT 89
2/17/70 L.A.B.
42174

44
Petitioner's Exhibit



Paul H. Carlson
To Her
Paul H. Carlson

CALDWELL PHILLIPS, INC.
INVESTMENT SECURITIES
ST. PAUL, MINN. 55101

PAY
TO THE
ORDER OF

Paul L. Halvorsen

PLAINTIFFS

EXHIBIT 16
M. J. STASIK

DEFENDERS
Halvorsen
Kath Scheld, Reporter

4 12577

DEC 28 1964

22-7
960

PAID

DEC 30 1964 CTS

CALDWELL PHILLIPS, INC.

ST. PAUL, MINNESOTA

\$ 9511. ⁷⁶ DOLLARS

The AMERICAN NATIONAL BANK
of Saint Paul
SAINT PAUL, MINNESOTA

AN AUTHORIZED OFFICER

R. M. Kark

DELUXE CHECK PRINTERS - 88

*Paul J. Halacson
In for Halacson Petition*

Petitioner's Exhibit

38



CALDWELL PHILLIPS, INC.
INVESTMENT SECURITIES
ST. PAUL, MINN. 55101

State's Ex 9

PLAINTIFF'S
EXHIBIT
M. J. STASIK

15
Kellie E. Stasik, Reporter

12572

PAY
TO THE
ORDER OF

Paul E. Halmer

PAID
AMERICAN NATIONAL BANK
DEC 30 1964
22-7

DEC 28 1964¹⁹

22-7
960

\$ 4219.⁰⁵

DOLLARS

The AMERICAN NATIONAL BANK
of Saint Paul
SAINT PAUL, MINNESOTA

ST. PAUL, MINNESOTA

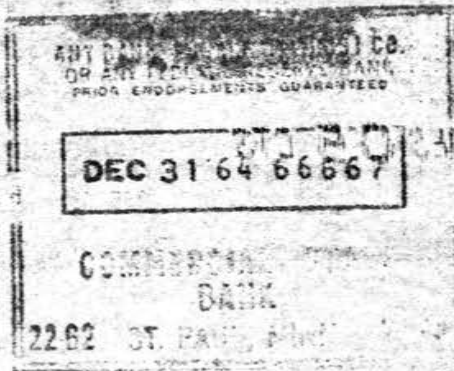
CALDWELL PHILLIPS, INC.

AN AUTHORIZED OFFICER

H. Att. Stasik

[REDACTED]

Petitioner's Exhibit **34**



*Paul J. Halverson
In for Automobile*

F 45-2



FIRST NATIONAL BANK OF MINNEAPOLIS
MINNEAPOLIS, MINNESOTA

PL-3 EX. A
Sent: Serial, Report

NUMBER

392402
PLAINTIFF'S

EXHIBIT 40
M. J. STAFF
918

REMITTER

PAY TO THE ORDER OF WILLIAM E. DREXLER

MINNEAPOLIS, MINN. DEC 8, 1964

\$ 2,500.00

Debt Ex (4)
8-4-65 m.j.

TWO THOUSAND FIVE HUNDRED AND 00/100 CTS

DOLLARS

CASHIER'S CHECK

[Signature]
AUTHORIZED SIGNATURE

[Redacted area]

31
Petitioner's Exhibit

PAY TO THE ORDER OF
ANY BANK, BANKER OR TRUST CO.
ALL PRIOR ENDORSEMENTS GUARANTEED

DEC 8 '64 22222

MINNESOTA STATE BANK
22-99 OF SAINT PAUL 22-09
ST. PAUL 7, MINNESOTA

AG 1457 DEC 09 64 22-1

PAY ANY BANK P.E.G.
FIRST NATIONAL BANK
OF
SAINT PAUL, MINN.

William S. Davis

F 45-2

MINNESOTA STATE BANK
1st
MINNEAPOLIS, MINN.
DEC 8 1965
GASPER
PAY TO THE ORDER OF
WILLIAM F. DREXLER

FIRST NATIONAL BANK OF MINNEAPOLIS
MINNEAPOLIS, MINNESOTA

MINNEAPOLIS, MINN. DEC 8, 1965

NUMBER

392403

PL 118 EX. 8
Keith Schind, Receiver

EXHIBIT 41
J. H. J. STASH 7-2
910

\$ 2,500.00

TWO THOUSAND FIVE HUNDRED AND 00/100 CTS

DOLLARS

Deposited
8-4-65
m.g.

CASHIER'S CHECK

[Signature]

AN AUTHORIZED SIGNATURE

[Redacted]

30
Petitioner's Exhibit

PAY TO THE ORDER OF
ANY BANK, BANKER OR TRUST CO.
ALL PRIOR ENDORSEMENTS GUARANTEED

DEC 0 54 22222

MINNESOTA STATE BANK
22-03 OF SAINT PAUL 22-03
ST. PAUL 7, MINNESOTA

AG 14 08 DEC 09 64 22-1

PAY ANY BANK, P. E. G.
FIRST NATIONAL BANK
OF
SAINT PAUL, MINN.

Albin S. Jones

DEFENDANT'S EXHIBIT 89
2/12/75 L.M.E.
18174

AS 22/2.10
DEC 8 1964
VELER

1ST

FIRST NATIONAL BANK OF MINNEAPOLIS
MINNEAPOLIS, MINNESOTA

MINNEAPOLIS, MINN. DEC 8, 1964

NUMBER 3984042

EXHIBIT 42
N. A. SYK 010

REMITTER

PAY TO THE ORDER OF WILLIAM E. DEXLER

\$ 3,002.63

Def't vs
EX (3)
8-4-65 m.g.

CASHIER'S CHECK

THREE THOUSAND AND 63 CTS

DOLLARS

1ST

W. E. DEXLER
AUTHORIZED SIGNATURE

William S. Jones

Ally

00-0017

22-10 4
PAY ANY BANK-P.E.G.
NORTHWESTERN NATIONAL BANK
ST. PAUL, MINNESOTA
4 22-10

76
Petitioner's Exhibit

COMMERCIAL STATE BANK

Bank Money Order No. _____
 Cashier's Check No. A 34436-437
 Chase Nat'l Bank, N. Y., No. _____
 Cont. Ill. Nat'l Bank, Chicago, No. _____
 Certified Check No. _____
 Certificate of Deposit No. _____

Date DEC 24 1964

PLF'S EX.
 Keith Gehlert, Recd.

PLAINTIFF'S
 EXHIBIT 43
 N. J. STASIK

ORDER		AMOUNT	
<u>Calmer H. Peterson</u>		<u>2,000</u>	
		<u>2,219</u>	<u>05</u>
PURCHASER <u>William E. Dwyer</u>		TOTAL	<u>4,219 05</u>

F.31 10M 12-63 H

Alreplex

Petitioner's Exhibit 35

**Commercial
State Bank**

FIFTH STREET AT ST. PETER / ST. PAUL 2, MINNESOTA

REMITTER

WILLIAM E. DREXLER

PAY TO THE
ORDER OF

PALMER A. PETERSON

DATE DEC. 30, 1961

PAID

COMMERCIAL STATE BANK

JAN 5 1962

AN AUTHORIZED SIGNATURE

CASHIER'S CHECK

ST. PAUL MINNESOTA

PLAINTIFFS 24436

EXHIBIT 44

N. J. STASIK 24-62
1960

*State's
Ex (66)*

DELUXE CHECK PRINTERS - 50-1

Richard Peterson

William S. Jones

att

Petitioner's Exhibit

37

00-0006

2-10 2
PAY ANY BANK-P.E.G.
NORTHWESTERN NATIONAL BANK
ST. PAUL, MINNESOTA
2 22-10

JAN 4 '65

Commercial State Bank



FIFTH STREET AT ST. PETER / ST. PAUL 2, MINNESOTA

REMITTER

WILLIAM E. DREXLER

PAY TO THE
ORDER OF

PALMER A. PETERSON

DATE

DEC. 30, 1964

PAID

COMMERCIAL STATE BANK

JAN 5 1965

AN AUTHORIZED SIGNATURE

CASHIER'S CHECK

ST. PAUL MINN. 55404

PLAINTIFFS

EXHIBIT

45

M. J. STASIK

22 62
950

Stalio
Ex (67)

m.d.

SECURITY CHECK PRINTERS - 100-1

Edmund Peterson

*William S. D. near
and*

Petitioner's Exhibit

26

00-0006

PAY TO BANK F. E. G.

NORTHWESTERN NATIONAL BANK

ST. PAUL, MINNESOTA

2

22-10

JAN 4 '65

COMMERCIAL STATE BANK

Bank Money Order No. _____
 Cashier's Check No. A 34438-39 40-41
 Chase Nat'l Bank, N. Y., No. _____
 Cont. Ill. Nat'l Bank, Chicago, No. _____
 Certified Check No. _____
 Certificate of Deposit No. _____

DEC 30 1964
 Date _____

PLAINTIFF'S
 EXHIBIT 46
 H. J. STASIK

PLF'S EX. S
 (Not a check, Record)

ORDER		AMOUNT	
Palmer A. PETERSON		3000	—
" " "		3000	—
William F. DREYLER		1373	—
Palmer A. Peterson		2138	46
PURCHASER <u>William F. Dreyler</u>	TOTAL	9511	46

Petitioner's Exhibit 39

ISSUER

WILLIAM E. DREYER

AY TO THE ORDER OF PALMER A. PETERSON

MINN. ST. PAUL
JAN 20 1965
CASHIER


Commercial State Bank
FIFTH STREET AT ST. PETER - ST. PAUL 2, MINNESOTA

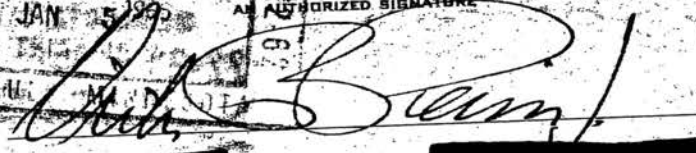
DATE DEC 30, 1964

A 34438
PLAINTIFF'S
EXHIBIT 47
H. J. STASIK 860

PAID
EXACTLY \$300.00
JAN 5 1965
ST. PAUL, MINN.

Stated
Ct 08
m. 9.

CASHIER'S CHECK

AUTHORIZED SIGNATURE


Edmund Peterson

2 Elm St. N. W. Wash D.C.

W

NE 193

FNB 22-1

AF JAN 5 1965

PAY TO THE ORDER OF
ANY BANK, BANKER OR TRUST CO.
ALL PRIOR ENDORSEMENTS GUARANTEED

JAN 4 65 22222

MINNESOTA STATE BANK
22-93 OF SAINT PAUL 22-93
ST. PAUL 7, MINNESOTA

Petitioner's Exhibit

43

MINNESOTA STATE BANK
ST. PAUL, MINN.
JAN 14 1965
TO THE ORDER OF
BALMER A. PETERSON
CASPER


Commercial State Bank
FIFTH STREET AT ST. PETER | ST. PAUL 2, MINNESOTA

DATE DEC. 30, 1964

34439
PLAINTIFF
EXHIBIT 48
M. J. STASIK
22 62
950

EXACTLY \$300.00 AND NO CENTS

CASHIER'S CHECK

PAID
COMMERCIAL STATE BANK
JAN 5 1965
ST. PAUL, MINN.
AN AUTHORIZED SIGNATURE

[Handwritten Signature]

State's
Ct G9
n.g.

[Redacted line]

Robert D. Palmer

William S. D. 1908

✓

PAY ANY BANK, P.E.G.
FIRST NATIONAL BANK
OF
SAINT PAUL, MINN.

22-1

AE 156 JAN 25 1908 0022-1

PAY TO THE ORDER OF
ANY BANK, BANKER OR TRUST CO.
ALL PRIOR ENDORSEMENTS GUARANTEED

JAN 4 1908 22222

MINNESOTA STATE BANK
22-93 OF SAINT PAUL 22 00
ST. PAUL 7, MINNESOTA

Petitioner's Exhibit *42*

REMITTER

WILLIAM E. DREXLER

PAY TO THE
ORDER OF

PALMER A. PETERSON



**Commercial
State Bank**

FIFTH STREET AT ST. PETER / ST. PAUL 2, MINNESOTA

DATE

DEC. 30, 1964

PAID

COMMERCIAL STATE BANK

JAN 5 1965

EXACTLY \$2138 AND 10 CTS

CASHIER'S CHECK

ST. PAUL

MINNESOTA

[Handwritten Signature]

PLF'S EX. P
Keith S. Reports

APLINTB 441
EXHIBIT 50
J. STASIK 22-62
1960



AN AUTHORIZED SIGNATURE

States
E1 G11
m.g.

DELUXE CHECK PRINTERS - 00-1

40

JAN 6 6 1966

22-62 ST. PAUL, MINN. 22-62

REMITTER

SELF

PAY TO THE
ORDER OF

WILLIAM E. DREXLER

CASHIER'S CHECK ST. PAUL MINN

 **Commercial
State Bank**
FIFTH STREET AT ST. PETER / ST. PAUL 2, MINNESOTA

DATE DEC. 30, 1964

PAID

COMMERCIAL STATE BANK

JAN 4 1965

AUTHORIZED SIGNATURE

[Signature]

PLAINTIFF'S

EXHIBIT 49 440

M. J. STASIK



Ex G 10
m g.

DELUXE CHECK PRINTER - 100-1

William S. Dyer

ANY BANK OR CREDIT CO
OR ANY FEDERAL RESERVE BANK
PRIOR ENDORSEMENTS GUARANTEED

JAN 5 '65 66603

COMMERCIAL
PAID


22-02 ST. PAUL

Petitioner's Exhibit 41

COMMERCIAL STATE BANK

Bank Money Order No. _____
 Cashier's Check No. 434524, 25, 26, 27, + 28
 Chase Nat'l Bank, N. Y., No. _____
 Cont. Ill. Nat'l Bank, Chicago, No. _____
 Certified Check No. _____
 Certificate of Deposit No. _____

Date 12-31-64

PLF'S EX. 
 Keith Scheld, Reporter

PLAINTIFF'S
 EXHIBIT 55
 H. J. STASIK

ORDER	AMOUNT
Palmer A. Peterson	3000 00
William E. Drexler	1316 78
Palmer A. Peterson	3000 00
" " "	3000 00
Palmer A. Peterson	2851 08
PURCHASER <u>William E. Drexler</u>	TOTAL 13167 86

Petitioner's Exhibit

45

REMITTER

WILLIAM E. DREXLER

PAY TO THE
ORDER OF

PALMER A. PETERSON

CASHIER'S CHECK



**Commercial
State Bank**

FIFTH STREET AT ST. PETER / ST. PAUL 2, MINNESOTA

DATE

DEC. 31, 1964

22-62
960

PAID

COMMERCIAL STATE BANK

EXACTLY \$12801.00 CTS

JAN 5 1965

ST. PAUL MINN. 55401

AN AUTHORIZED SIGNATURE

[Handwritten signature]

PLF'S EX.
With Serial, Report

PLAINTIFF'S

EXHIBIT

M. J. STASIK

34524

State's Ex

(61)

Petitioner's Exhibit 46

Richard L. Peterson
William S. Davis
and

JAN 4 '65
22-10
2
ST. PAUL, MINNESOTA
WESTERN NATIONAL BANK
PAY ANY BANK E.G.
9000-00

REMITTER

WILLIAM E. DREXLER

PAY TO THE
ORDER OF

PALMER A. PETERSON

CASHIER'S CHECK



FIFTH STREET AT ST. PETER & ST. PAUL 2, MINNESOTA

Commercial
State Bank

PLF'S EX.
Kath Scheld, Reporter

PLAINTIFF'S 34525

EXHIBIT 57
H. J. STASIN

22-62
960

DATE DEC 31, 1964

PAID

COMMERCIAL STATE BANK

EXACTLY 3000.00 DCTS

JAN 4 1965

ST. PAUL MINNESOTA

AUTHORIZED SIGNATURE

Stations
EX (62)

[Handwritten signature]

[Redacted area]

ANY BANK OR ANY FEDERAL RESERVE BANK
PRIOR ENDORSEMENTS GUARANTEED

JAN 5 65 66603

COMMERCIAL BANK
2262 ST. PAUL, MINN.

47
Petitioner's Exhibit

Edmund A. Peterson
W. Lee S. Jones

REMITTER
SELF

PAY TO THE
ORDER OF

WILLIAM E. DREXLER

CASHIER'S CHECK



**Commercial
State Bank**

FIFTH STREET AT ST. PETER / ST. PAUL 2, MINNESOTA

DATE DEC 31, 1964

PAID

COMMERCIAL STATE BANK

EXACTLY

JAN 4 1965

22-62

22-62
CAN AUTHORIZED SIGNATURE

[Handwritten signature]

FILED EX
N. J. STARK

PLAINTIFF'S 34526

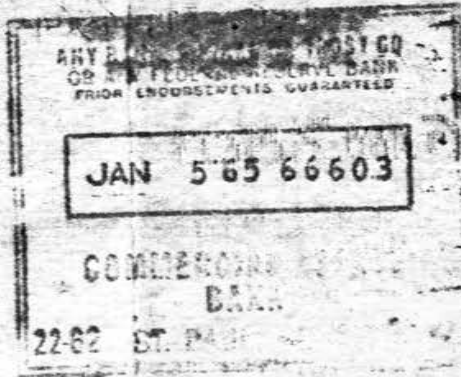
EXHIBIT 58

N. J. STARK

22-62
960



Ex 23



48
Petitioner's Exhibit

William S. Dwyer

REMITTER

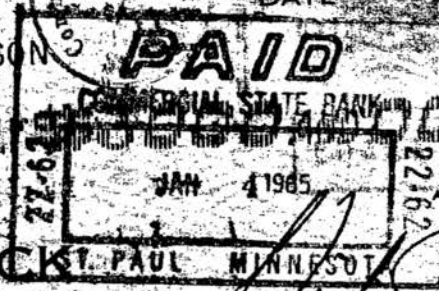
WILLIAM E. DREXLER

PAY TO THE
ORDER OF

PALMER A. PETERSON

**Commercial
State Bank**
FIFTH STREET AC ST. PETER / ST. PAUL 2, MINNESOTA

DATE DEC. 31, 1964



EXACTLY

22.62 DOLLARS

CASHIER'S CHECK ST. PAUL MINNESOTA

PLF'S EX.

PLAINTIFF'S 34527
A 59
EXHIBIT
RE J. STASK

22-62
960

State's
Ex (64)
n9.

AUTHORIZED SIGNATURE

[Redacted signature area]



69
Petitioner's Exhibit

Admission & Receipt
Admission & Receipt

REMITTER

WILLIAM E. DREXLER

PAY TO THE
ORDER OF

PALMER A. PETERSON

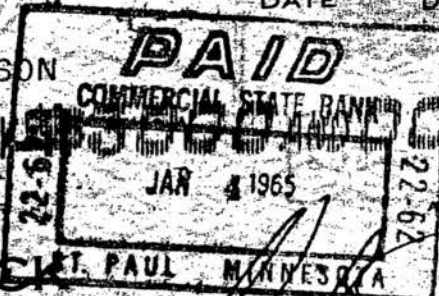
CASHIER'S CHECK



**Commercial
State Bank**

10TH STREET AT ST. PETER / ST. PAUL 2, MINNESOTA

DATE DEC. 31, 1964



PLF'S EX.
Stash Schold, Repor

PLAINTIFF'S 34528
EXHIBIT 60
R. J. STASIK

22-62
960

State's
Ex (G5)
M.J.

AUTHORIZED SIGNATURE

Edmund A. Peterson

William S. Voss

PLAINTIFFS
EXHIBIT No. 9
MOSYJBERGET
Court Reporter



50
Petitioner's Exhibit

February 4, 1970

Re: L-3
Income Tax RETURNS - 1040
1965, 1966, 1967, 1968

Mr. George O. Lethert
District Director, Internal Revenue Service
U.S. Treasury Dept.
P.O. Box 3615
St. Paul, Minnesota

Sir:

This will acknowledge your letter of 12-19-69.

In response thereto attached herewith kindly find
Amended returns for the years 1965, 1966, 1967, 1968, which
are self explanatory.

I remain,

Respectfully yours,

Jerome Daly
Jerome Daly

b/

42174

Respondents' Ex B
3/10/70 Lmg

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

FOURTH DIVISION

William E. Drexler,

Plaintiff

vs

DISMISSAL
WITHOUT
PREJUDICE

Stanley D. Kane, individually, and as District
Judge of the State of Minnesota; Joe A. Walters,
individually, and as Referee and Receiver;
James P. Morris and Robert W. Dygert; and
Dygert and Gunn, a partnership; Sigurd A
Bertelsen, Postmaster; and United States of
America, Kaye V. Peterson,

Defendants

The above entitled action is hereby dismissed with-
out prejudice.

S/ Jerome Daly

Jerome Daly
Attorney for Plaintiff
Savage Minnesota

William E. Drexler
William E. Drexler
Plaintiff

PETITIONER'S EXHIBIT 88
2/14/70 L.M.F.
42174

ON THE FIRST DAY OF JULY -1966-
\$30.00
RIDGE LUTHERAN HOME, INC.,
BURNSVILLE, MINNESOTA,
will pay to bearer at the Midway National Bank of St. Paul, Minnesota,
the sum stated hereon in lawful money of the United States of America
being six months interest due on that date on its Series 4 bond dated
July 1, 1965.
Attest: *[Signature]* Treasurer
Bond Number *126*
Coupon Number 2

ON THE FIRST DAY OF JANUARY -1966-
\$30.00
RIDGE LUTHERAN HOME, INC.,
BURNSVILLE, MINNESOTA,
will pay to bearer at the Midway National Bank of St. Paul, Minnesota,
the sum stated hereon in lawful money of the United States of America
being six months interest due on that date on its Series 4 bond dated
July 1, 1965.
Attest: *[Signature]* Treasurer
Bond Number *6*
Coupon Number 1

number
6

Church Plan, Inc.

dollars
1,000.00

42174

STATE OF MINNESOTA
COUNTY OF DAKOTA
CITY OF BURNSVILLE

RIDGE LUTHERAN HOME, INC
BUILDING IMPROVEMENT BOND
SERIES 4

Ridge Lutheran Home, Inc., a Religious Corporation incorporated under the laws of the
State of Minnesota for value received, promises to pay the bearer the principal sum of

ONE THOUSAND DOLLARS (\$1,000.00)

ON THE FIRST DAY OF
JANUARY

1967

with interest thereon at the rate of six per cent (6%) per annum payable semi-annually
beginning six months from the issue date hereof upon the presentation and surrender of
the coupons as they severally fall due. Both principal and interest are payable in lawful
money of the United States of America, at the Midway National Bank of St. Paul, Minnesota,
St. Paul, Minnesota.

This bond is subject to redemption at the option of the maker on any interest paying
date each year until its maturity, at par with the interest accrued thereon at the time of
such redemption, and if not so redeemed before maturity, it shall be paid in full on its due
date. Notice of such intention to redeem shall be given in writing not less than thirty
(30) days prior to such redemption call, after such call, the maker shall not be liable for
interest accruing after the call date.

This bond shall pass by delivery, at which time the transferee shall notify the maker in
writing of his name and address. Upon written request and in accordance with the
resolution herein mentioned, this bond may be registered and title will then pass only
after formal transfer on the registry.

This bond is one of a series of coupon bonds issued by said maker under the authority
of its charter and a resolution duly enacted, for the purpose of financing improvements to
the physical properties of said maker a legal description of which is included in the
resolution herein mentioned. Said resolution and its terms are hereby made a part hereof
and the maker reserves the right to issue other bonds in accordance with the terms thereof.
This bond is one of a series of Nine Hundred Ninety (990) coupon bonds.

The aggregate principal value of this issue is Five Hundred Thousand (\$500,000.00)
Dollars.

The maker and its officers signing this bond certify that all acts and conditions required
by said resolution authorizing the issuance of this bond have been done and performed in
regular and due form as therein required. They further certify that a sufficient amount
of the income of said maker has been assigned to a separate account to pay the interest
on this issue of bonds and to retire said bonds as they mature.

IN WITNESS WHEREOF the maker has caused this bond to be signed and its seal affixed
and the same to be attested by the proper officers of said maker in accordance with the
resolution herein mentioned this first day of July, 1965.

RIDGE LUTHERAN HOME, INC.

ATTEST:

Eugene N. Linn Jr.
Secretary

Carl R. Anderson
President of Corporation

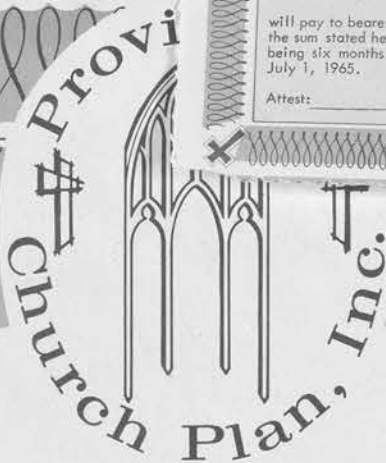
Respondents' 42VV 4/27/70 emg



ON THE FIRST DAY OF JANUARY -1967-
\$30.00
Bond Number
6
Coupon Number 3
will pay to bearer at the Midway National Bank of St. Paul, Minnesota, the sum stated hereon in lawful money of the United States of America being six months interest due on that date on its Series 4 bonds dated July 1, 1965.
Attest: *Howard E. Plummer*
Treasurer

number
6

dollars
1,000.00



42174

STATE OF MINNESOTA
COUNTY OF DAKOTA
CITY OF BURNSVILLE

RIDGE LUTHERAN HOME, INC
BUILDING IMPROVEMENT BOND
SERIES 4

Ridge Lutheran Home, Inc., a Religious Corporation incorporated under the laws of the State of Minnesota for value received, promises to pay the bearer the principal sum of

ONE THOUSAND DOLLARS (\$1,000.00)

ON THE FIRST DAY OF
JANUARY

1967

with interest thereon at the rate of six per cent (6%) per annum payable semi-annually beginning six months from the issue date hereof upon the presentation and surrender of the coupons as they severally fall due. Both principal and interest are payable in lawful money of the United States of America, at the Midway National Bank of St. Paul, Minnesota, St. Paul, Minnesota.

This bond is subject to redemption at the option of the maker on any interest paying date each year until its maturity, at par with the interest accrued thereon at the time of such redemption, and if not so redeemed before maturity, it shall be paid in full on its due date. Notice of such intention to redeem shall be given in writing not less than thirty (30) days prior to such redemption call, after such call, the maker shall not be liable for interest accruing after the call date.

This bond shall pass by delivery, at which time the transferee shall notify the maker in writing of his name and address. Upon written request and in accordance with the resolution herein mentioned, this bond may be registered and title will then pass only after formal transfer on the registry.

This bond is one of a series of coupon bonds issued by said maker under the authority of its charter and a resolution duly enacted, for the purpose of financing improvements to the physical properties of said maker a legal description of which is included in the resolution herein mentioned. Said resolution and its terms are hereby made a part hereof and the maker reserves the right to issue other bonds in accordance with the terms thereof. This bond is one of a series of Nine Hundred Ninety (990) coupon bonds.

The aggregate principal value of this issue is Five Hundred Thousand (\$500,000.00) Dollars.

The maker and its officers signing this bond certify that all acts and conditions required by said resolution authorizing the issuance of this bond have been done and performed in regular and due form as therein required. They further certify that a sufficient amount of the income of said maker has been assigned to a separate account to pay the interest on this issue of bonds and to retire said bonds as they mature.

IN WITNESS WHEREOF the maker has caused this bond to be signed and its seal affixed and the same to be attested by the proper officers of said maker in accordance with the resolution herein mentioned this first day of July, 1965.

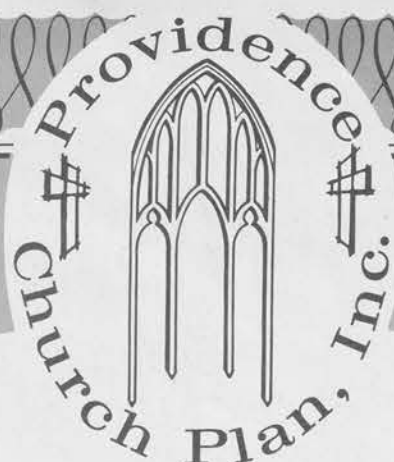
RIDGE LUTHERAN HOME, INC.

ATTEST:

Eugene N. Linn Jr.
Secretary

Carl R. Anderson
President of Corporation

Respondents 4xVV 2/17/70 emg



number

6

dollars

1,000.00

42174

STATE OF MINNESOTA
COUNTY OF DAKOTA
CITY OF BURNSVILLE

42174

RIDGE LUTHERAN HOME, INC

BUILDING IMPROVEMENT BOND
SERIES 4

Ridge Lutheran Home, Inc., a Religious Corporation incorporated under the laws of the State of Minnesota for value received, promises to pay the bearer the principal sum of

ONE THOUSAND DOLLARS (\$1,000.00)

ON THE FIRST DAY OF

JANUARY

1967

with interest thereon at the rate of six per cent (6%) per annum payable semi-annually beginning six months from the issue date hereof upon the presentation and surrender of the coupons as they severally fall due. Both principal and interest are payable in lawful money of the United States of America, at the Midway National Bank of St. Paul, Minnesota, St. Paul, Minnesota.

This bond is subject to redemption at the option of the maker on any interest paying date each year until its maturity, at par with the interest accrued thereon at the time of such redemption, and if not so redeemed before maturity, it shall be paid in full on its due date. Notice of such intention to redeem shall be given in writing not less than thirty (30) days prior to such redemption call, after such call, the maker shall not be liable for interest accruing after the call date.

This bond shall pass by delivery, at which time the transferee shall notify the maker in writing of his name and address. Upon written request and in accordance with the resolution herein mentioned, this bond may be registered and title will then pass only after formal transfer on the registry.

This bond is one of a series of coupon bonds issued by said maker under the authority of its charter and a resolution duly enacted, for the purpose of financing improvements to the physical properties of said maker a legal description of which is included in the resolution herein mentioned. Said resolution and its terms are hereby made a part hereof and the maker reserves the right to issue other bonds in accordance with the terms thereof. This bond is one of a series of Nine Hundred Ninety (990) coupon bonds.

The aggregate principal value of this issue is Five Hundred Thousand (\$500,000.00) Dollars.

The maker and its officers signing this bond certify that all acts and conditions required by said resolution authorizing the issuance of this bond have been done and performed in regular and due form as therein required. They further certify that a sufficient amount of the income of said maker has been assigned to a separate account to pay the interest on this issue of bonds and to retire said bonds as they mature.

IN WITNESS WHEREOF the maker has caused this bond to be signed and its seal affixed and the same to be attested by the proper officers of said maker in accordance with the resolution herein mentioned this first day of July, 1965.

RIDGE LUTHERAN HOME, INC.

ATTEST:

Eugene N. Linn Jr.
Secretary

Carl K. Anderson
President of Corporation

Respondent's 4/11/70 emf

CERTIFICATE OF TREASURER

The within bond has been duly executed, issued and paid for at par by the holder and the said bond is accordingly a valid obligation of this Corporation.

This the day of 19. . . .

By *Howard E. P. P.*



number

STATE OF MINNESOTA
COUNTY OF DAKOTA
CITY OF BURNSVILLE

RIDGE LUTHERAN
HOME, INC.

BUILDING IMPROVEMENT BOND
SERIES 4

1000

DATE ISSUED
July 1, 1965

PRINCIPAL DUE
JANUARY 1

1967

Call for redemption, any
interest paying period
6% INTEREST
PAYABLE SEMI-ANNUALLY
Principal and Interest Payable

At
Midway National Bank
of St. Paul, Minnesota

STATE OF MINNESOTA

566224

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Faye V. Peterson,

Plaintiff,

vs.

NOTICE OF ENTRY OF JUDGMENT

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

Defendants.

TO: THE ABOVE NAMED DEFENDANTS AND JEROME P. DALY, WILLIAM
DREXLER AND PAUL G. FISCH, THEIR ATTORNEYS,

YOU WILL PLEASE TAKE NOTICE, That on the 28th day
of January, 1965, Judgment was entered in the above entitled
matter as set forth in the Judgment and Decree dated January
28, 1965, a true copy of which is hereto attached and hereby
served upon you.

JAMES P. MORRIS
1925 Rand Tower
Minneapolis, Minnesota 55402

and

DYGERT & GUNN

By /s/ Robert W. Dygert
990 Northwestern Bank Bldg.
Minneapolis, Minnesota 55402

Dated: February 4, 1965

Attorneys for Plaintiff

Respondents ✓ 42174
2/12/70 lmg

STATE OF MINNESOTA

566224

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

FAYE V. PETERSON,

PLAINTIFF,

AGAINST,

JUDGMENT AND DECREE

PALMER A. PETERSON and
PAUL L. HALVERSON,
individually and as
Trustees,

JANUARY 28, 1965

DEFENDANTS.

The above entitled action having been regularly placed upon the calendar of the above named Court for the September A. D. 1964 General Term thereof, came on for trial before the Court on the 13th day of January, A. D. 1965; and the Court, after hearing the evidence adduced at said trial and being fully advised in the premises, did on the 26th day of January A. D. 1965, duly make and file its findings and order for judgment herein.

Now, pursuant to said order and on motion of Messrs. Rorris and Dygert, attorneys for the plaintiff, it is hereby adjudged and decreed:

1. That the Plaintiff have and recover of Defendant, Palmer A. Peterson, the sum of Five Thousand (\$5000.00) Dollars as and for reasonable attorneys fees for JAMES P. RORRIS, and the further sum of One Thousand (\$1,000.00) Dollars as and for reasonable expenses incurred by James P. Rorris, amounting in the whole to the sum of Six Thousand (\$6,000.00) Dollars.
2. That the Plaintiff have and recover of Defendant, Palmer A. Peterson, the sum of Eight Thousand (\$8,000.00) Dollars as and for reasonable attorneys fees for ROBERT W. DYGERT, and the further sum of One Thousand Five Hundred (\$1,500.00) Dollars as and for reasonable expenses incurred by ROBERT W. DYGERT, amounting in the whole to the sum of Nine Thousand Five Hundred (\$9,500.00) Dollars.
3. That Defendant, Palmer A. Peterson and his agents, employees and all persons under his direction or control shall forthwith deliver to defendant PAUL L. HALVERSON all trust assets of the trust hereinabove referred to, in their possession or under their control.

566224

4. That defendant, Palmer A. Peterson and his agents, employees and all persons under his direction or control having possession or control of said trust assets, hereby are restrained and enjoined from secreting, transferring, encumbering or otherwise disposing of said trust assets except in accordance with the orders of this Court.

5. That until said trust assets are returned to the trustee, defendant PAUL L. HALVERSON, all persons having possession or control of said trust assets hereby are deemed to be constructive trustees of said trust assets, subject to the further orders of this Court.

6. That upon the return of said trust assets to defendant PAUL L. HALVERSON, the trust created by defendant PALMER A. PETERSON shall be deemed to be vacated and set aside; said trustee, with respect to all trust assets that shall hereafter be returned to his possession or control, shall forthwith deliver said trust assets to the Clerk of this court subject to the orders of this Court.

7. That defendant PAUL L. HALVERSON, be, and he hereby is, restrained and enjoined from secreting, transferring, encumbering or otherwise disposing of said trust assets except in accordance with the orders of this Court.

8. That upon delivery of said trust assets to the Clerk of this Court, they shall be distributed as follows:

(1) 33 per cent of said trust assets or the cash equivalent thereof shall be paid to plaintiff.

(2) The sum of Five Hundred Fifty (\$550.00) Dollars shall be paid to THOMAS HARMON for services rendered by him as a receiver appointed by this Court.

(3) The total sum of One Hundred Sixty-five (\$165.00) Dollars shall be paid to DR. LEO J. HANVIK and DR. HAROLD B. HANSON for psychological and psychiatric services rendered in connection with the children of the parties as follows:

Dr. Leo J. Hanvik - \$90.00
Dr. Harold B. Hanson - 75.00

(4) The sum of Five Thousand (\$5,000.00) Dollars shall be paid to JAMES P. RORRIS as and for reasonable attorneys fees as hereinabove allowed.

(5) The sum of One Thousand (\$1,000.00) Dollars shall be paid to JAMES P. RORRIS to reimburse him for expenses as set forth hereinabove.

566224

(6) The sum of Eight Thousand (\$8,000.00) Dollars shall be paid to ROBERT W. DYGERT as and for reasonable attorneys fees as hereinabove allowed.

(7) The sum of One Thousand Five Hundred (\$1,500.00) Dollars shall be paid to ROBERT W. DYGERT to reimburse him for expenses as set forth hereinabove.

(8) That all sums hereafter allowed by the Court to KERMIT A. GILL, SAMUEL SALITERMAN, and DESMOND F. PRATT, in connection with the attorneys' liens which they have filed herein, shall be paid to said attorneys.

(9) Whatever balance that remains shall be placed in trust for the benefit of the children of the parties herein, namely, PALMER BRENT PETERSON, SHERI FAYE PETERSON and BRADFORD LEE PETERSON, for their college education upon such terms and conditions as the Court may hereafter approve. That the creation of said trust shall in no way relieve defendant PALMER A. PETERSON of any responsibility he may otherwise have as the father of said children.

(#1) \$6,000.00

(#2) \$9,500.00

BY THE COURT:

PHILIP C. SCHMIDT

Clerk of District Court

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 28 1965
PHILIP C. SCHMIDT, Clerk of District Court

By T. B. Arthur Deputy

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DYGERT & GUNN

990 NORTHWESTERN BANK BUILDING
MINNEAPOLIS, MINNESOTA 55402

The San Diego Union

SAN DIEGO, CALIFORNIA, SATURDAY MORNING, NOVEMBER 1, 1969

Wed., Oct. 22, 1969 San Francisco Chronicle 59

Mining Congress

Inflation's 'Good' Side

By Sidney P. Allen
Financial Editor

THE ODDS, SAYS consulting economist Arthur Uppgren of Minneapolis, are heavily against our being able to slide off easily and sideways from the 1965-68 inflationary boom.

It has never been done before, he reminded delegates to the American Mining Congress here yesterday.

And current signs suggest we're nearing a crisis in our attempt.

"What the building trades and materials producers are saying (with prices of labor and materials) is let-them-eat-cake The nation's builders appear to be afflicted with a death wish and tunnel vision."

The economist knows only too well that "you have to preach about Hell, not Heaven, to get their ears." The Hell, in this case, would be a painful dose of unemployment. Everybody's listening, and watching.

But there's a potential Heaven in it for the mining industry, Uppgren was quick to note. It's a tremendously stimulated investment in machinery, equipment and factories that is brought about by the high level of wages.

"There is a larger sum to be saved by substituting power and machinery for labor."

Economist Uppgren, a stylist, is the same man who predicted here four years ago that the United States is slated to "go bust" on November 18, 1970. He set that date by projecting the trend line of liquidity of all banks in the nation (ratio of cash and reserves plus all U.S. securities to total bank deposits).

Inflation and "bust," you might conclude, are natural fellow-travelers.

Reserve Notes Face Challenge

Attorney Unable To Get Silver In Trade, Sues U.S.

By MITCH HIMAKA

The former chief assistant U.S. attorney here yesterday filed suit in federal court challenging the use of federal reserve notes as "lawful money."

Attorney Mobley M. Milam, who served in the federal prosecutor's office three years until Oct. 18, named as defendants the United States, the Federal Reserve System and the Federal Reserve Bank of San Francisco.

Milam filed the two-page suit and explained his action in a press conference.

He said the suit stemmed from the bank's refusal to redeem a \$50 note for lawful money on his demand. He defined "lawful money" as silver dollars or Lincoln greenbacks.

MADE REQUEST IN L.A.

Milam said he made the request of bank officials in Los Angeles Oct. 27 and was told that they would redeem it only for other notes.

He pointed out that the note carries the notation that it could be redeemed in lawful money at the U.S. Treasury or at any federal reserve bank.

Milam said he and a companion were taken to a vault at the bank and told of seeing stacks of money.

Milam in the suit asks that the \$50 note be redeemed in lawful money and asks judgment against the government, reserve system and the bank of \$50 in lawful money and interests.

He said he was filing the suit on behalf of all the people in the country.

"This is a suit to force the government and federal reserve system to redeem federal reserve notes in lawful money," Milam said.

"Contrary to what many people will think, this suit is very important. It goes to the very foundation of our government and society.

"It strikes at the root cause of our basic problems of inflation, the public debt and loss of our freedom to big government."

He said the Treasury Department's contention that federal reserve notes shall be redeemed in themselves is illogical.

DEFINED BY STATUTE

"It is like saying 'green stamps can only be redeemed in green stamps,' he said. "Federal reserve notes, until recently changed by bureaucratic fiat, specifically promise to pay to the bearer on demand so many dollars.

"A dollar throughout our history has been defined by statute as so many grains of silver or gold and nothing else. The only other thing defined by statute as 'lawful money' is United States Notes, or greenbacks."

Milam said the federal reserve is privately owned and its owners are "not only getting rich at our expense but also creating the huge public debt which is the basic cause of the inflation which is tearing this country apart."

Milam, who admits having silver mining interests in Montana, also accused the government of subsidizing the Silver Users Association by selling 1.5 million ounces of silver at below costs.

42174

Respondents in II emg 2/13/70

Respondents ex 4
2/12/70 lmy 42174

1 STATE OF MINNESOTA 566224 DISTRICT COURT
2 COUNTY OF HENNEPIN FOURTH JUDICIAL DISTRICT

3 -----

4 Faye V. Peterson,
5 Plaintiff,

6 -vs-

7 Palmer A. Peterson, and
8 Paul L. Halverson, individually,
and as Trustee,

9 Defendants.

10 -----

11 The above-entitled matter came duly on for
12 hearing before the Hon. Irving R. Brand, one of the
13 judges of the above-named Court, on January 4, 1965,
14 in the Court House, City of Minneapolis, County of
15 Hennepin, State of Minnesota.

16

17 APPEARANCES

18

19 James P. Rorris, Esq., and Robert W. Dygert,
20 Esq., appeared as counsel for and in behalf of
21 Plaintiff.

22 Jerome Daly, Esq., appeared as counsel for
23 and in behalf of Defendant Palmer A. Peterson.

24 Paul L. Halverson, appeared pro se.

25 Desmond Pratt, Esq., appeared pro se.

9:20 A.M.

THE COURT: The matter of Peterson v. Peterson.

MR. DYGERT: Plaintiff is ready, Your Honor.

THE COURT: I take it that you have no word from Palmer Peterson?

MR. DYGERT: If the Court please, the sheriff informed me about an hour ago that he had not been able to serve the bench warrant, that he had been to Dr. Peterson's office and also pounded on the door for 15 minutes at his residence without success.

MR. DALY: I am Jerome Daly, Your Honor.

THE COURT: You are Mr. Daly.

MR. DALY: That is right.

THE COURT: I see.

MR. DALY: I believe my brother appeared here last Thursday.

THE COURT: Your brother appeared last Thursday and presented a letter to me, apparently from you.

MR. DALY: Right.

THE COURT: Dated December 26, in which you indicated that he was to appear for the limited purpose of submitting a motion for amended findings.

Was a written motion made?

MR. DALY: I believe, in that I filed it.

THE COURT: The hearing on the 31st was a continued

1 hearing pursuant to an order that I made setting the
2 matter down for hearing with respect to the trust assets
3 so that I could make an appropriate order for distribution
4 of those trust assets and for the determination of
5 reasonable attorney's fees for the attorneys for the
6 plaintiff.

7 I have learned both from your letter and from
8 the assignment clerk that there was filed an affidavit
9 of prejudice by Palmer Peterson.

10 The affidavit is not in the file.

11 MR. DALY: It was made in time to be there.

12 THE COURT: Yes.

13 I suppose I ought to first determine whether
14 or not I can even acknowledge that affidavit in view
15 of the fact that the case of Peterson against Peterson
16 has not been concluded.

17 MR. DALY: Of course, you understand that I
18 was not at the trial.

19 THE COURT: I appreciate that.

20 MR. DALY: And I don't know what went on.

21 THE COURT: I take it you have had ample
22 opportunity to examine the file.

23 MR. DALY: To be honest with you, I haven't
24 had a chance to look at it yet.

25 THE COURT: You have had ample opportunity.

1 MR. DALY: That could be.

2 THE COURT: It is not a matter of could be.
3 When were you retained by Dr. Peterson?

4 MR. DALY: I don't remember the exact date.

5 THE COURT: Approximately. Certainly prior
6 to December 15.

7 MR. DALY: I'd say somewhere around the
8 8th or 10th of December.

9 Now, was there a trial in which both parties
10 rested in this matter?

11 THE COURT: There was a trial in which all
12 parties rested.

13 MR. DALY: And after this the Court made its
14 findings of fact, conclusions of law and order for
15 judgment?

16 THE COURT: No. The Court made findings of
17 fact, and reserved jurisdiction with respect to making
18 additional findings, so that the Court had not concluded
19 its findings of fact and conclusions of law.

20 MR. DALY: Did you make an order for judgment
21 to be entered?

22 THE COURT: Yes. I made an order for judgment.
23 But I think the best thing for you to do is
24 acquaint yourself with the file.

25 MR. DALY: I read the order for findings of

1 fact, conclusions of law and order for judgment.

2 THE COURT: Did you read what the Court
3 said, that the Court makes no finding of fact, conclusion
4 of law or order, but reserves jurisdiction with respect
5 to the following:

6 MR. DALY: Judge, couldn't you have made a
7 complete determination?

8 THE COURT: Mr. Daly, what I could have done
9 is immaterial. The question is what I did do.

10 And I did not make findings of fact. I
11 reserved jurisdiction with respect to the trust.

12 I then made subsequent findings of fact with
13 respect to the trust, and did not even conclude that
14 matter.

15 MR. DALY: Here is the point, as I see it,
16 the reason you couldn't make a final and complete
17 determination all at once was that you didn't have
18 sufficient evidence; is that right?

19 THE COURT: No. I had sufficient evidence.

20 MR. DALY: Well, what is the purpose of a
21 further hearing then?

22 THE COURT: To determine now the nature and
23 extent of the trust assets, since that did not come out
24 in the evidence.

25 MR. DALY: Whose fault was that? That wasn't

1 my client's fault.

2 THE COURT: It is not a matter of whose
3 fault it was.

4 All I am telling you, I will not acknowledge
5 the affidavit of prejudice because it has been made and
6 filed during the course of the case, during the course
7 of the trial before I made my final findings of fact and
8 conclusions of law. So the matter is not at an end and
9 the affidavit is filed during the course of the case.

10 MR. DALY: The evidence was closed at one
11 time.

12 THE COURT: That is immaterial.

13 MR. DALY: I don't think it is, myself.

14 THE COURT: Mr. Daly, you can proceed in what-
15 ever manner you wish. You can attempt to obtain any
16 kind of process to prevent me from continuing the matter,
17 but I intend to continue the matter.

18 MR. DALY: As far as -- I don't know. I am not
19 quite clear. As I understand it, the findings of fact
20 and conclusions of law have not been completed?

21 THE COURT: Have not been completed in this
22 case with respect to the trust, that is right.

23 And the purpose of this hearing now is to
24 determine what assets the trustee has, what their value
25 is, so that I can make an appropriate order.

1 Now, I will then stay my order in order to give
2 the defendant an opportunity to appeal.

3 In other words, what I intend to do is find
4 out what assets Mr. Halverson has in his possession as
5 trustee.

6 Originally, roughly \$10,000 in cash and, I
7 believe if my memory serves me correctly \$22,000 or
8 so in securities, were deposited with the trustee.

9 Now, those securities have a value different
10 from what they had when they were deposited with Mr.
11 Halverson, and some of the cash has been distributed by
12 the trustee.

13 When I ascertain what assets there are in
14 the trust, I will then determine what portion shall be
15 distributed to Mrs. Peterson, what portion to Dr.
16 Peterson, and what further payment should be made on
17 account of arrearages due and owing by Dr. Peterson to
18 Mrs. Peterson.

19 When I make my final order, then I will stay
20 that order to give Dr. Peterson an opportunity to appeal.

21 MR. DALY: To what?

22 THE COURT: I will give Dr. Peterson an
23 opportunity to appeal from my final order.

24 In other words, when I conclude the trust
25 matter, then I will have completed my activity in this

1 case except insofar as our other pending motions.

2 MR. DALY: Haven't you made an order for
3 entry of judgment based upon a trial?

4 THE COURT: Mr. Daly, we can go round-robin
5 on this.

6 I made an order and I reserved jurisdiction
7 with respect to the trust aspect of the case.

8 MR. DALY: I know. But you have got an
9 amended findings of fact, conclusions of law and order
10 for judgment.

11 THE COURT: What do I say?

12 MR. DALY: But you have ordered judgment to
13 be entered based upon the findings of fact, conclusions
14 of law and order for judgment as follows: -- okay.

15 As I see it, as I understand the law, that
16 concludes your jurisdiction so far as that trial was
17 concerned.

18 If there is going to be a further hearing or
19 trial, you can't sit in and face the affidavit of
20 prejudice.

21 THE COURT: What does the judgment provide
22 for. You are talking about a judgment that finally
23 determines the matter insofar as I am concerned.

24 MR. DALY: There is only one judgment
25 entered in any action, and that judgment has been based

1 upon the evidence adduced at the trial.

2 THE COURT: Well, Mr. Daly, we can go round-
3 robin on this thing.
4

5 I will give you three days within which to
6 submit authorities which you contend deprives me of
7 further jurisdiction in this case.

8 MR. DALY: All right. I think that one case --
9 well, all right.

10 THE COURT: A letter memorandum. A letter
11 memorandum by Thursday, January 7.

12 MR. DALY: Very well.

13 And did you grant us 20 days in which to file a
14 brief?

15 THE COURT: I didn't make any finding.

16 MR. DALY: No.

17 THE COURT: I didn't do anything with respect
18 to your motion.

19 MR. DALY: Well, we want 20 days in which to
20 file a brief in support of that motion.

21 THE COURT: How can you contend on the one hand
22 that I am deprived of jurisdiction and then on the other
23 hand make a motion for amended findings?

24 MR. DALY: The only jurisdiction, as I see,
25 you have left is the jurisdiction to amend the findings
or grant a new trial. As I understand, once a trial is

1 concluded, both parties rest, the Court makes
2 findings of fact, conclusions of law and order for
3 judgment.

4 THE COURT: Suppose it doesn't make any
5 findings?

6 MR. DALY: You can't make findings if you
7 don't have evidence upon which --

8 THE COURT: Suppose I have evidence and don't
9 make findings.

10 MR. DALY: I think it is your duty to find
11 upon every fact in issue. That is the law.

12 THE COURT: You submit a memorandum as to what
13 jurisdiction I do or don't have.

14 MR. DALY: That is fundamental law. The Court
15 has to make specific findings of fact in issue.

16 THE COURT: Can the court reserve jurisdiction
17 to make findings?

18 MR. DALY: I don't think so.

19 THE COURT: You and I differ then.

20 MR. DALY: If we differ, the law should settle
21 our differences.

22 THE COURT: That is right. So you submit a
23 letter memorandum by Thursday, January 7.

24 You will have three days thereafter, Mr.
25 Dygert, to submit a reply memorandum.

1 MR. DYGERT: We would be willing to make it
2 concurrent, in the interest of moving things along.

3 THE COURT: All right. You submit a
4 memorandum by Thursday.

5 Now, are you representing Mr. Halverson?

6 MR. DALY: No, I am not.

7 THE COURT: I don't think you have any standing
8 with respect to Mr. Halverson because the hearing is
9 going to deal with the duties of Mr. Halverson now as to
10 what assets he has in his possession.

11 MR. DALY: Well, I have standing with
12 respect to my own client.

13 THE COURT: Oh, yes.

14 MR. DALY: My client has a definite interest
15 in what transpires here.

16 THE COURT: I appreciate that.

17 MR. DALY: Well, I want to take one further
18 position. The Court is without jurisdiction to issue an
19 order to show cause here today.

20 The only purpose of an order to show cause
21 is to shorten the time for a motion. The only way
22 that a court can issue an order to show cause is upon
23 motion ex parte, upon a proper affidavit.

24 THE COURT: What order to show cause are you
25 talking about?

1 MR. DALY: The one that was served on
2 Halverson and attempted to be served on my client.

3 THE COURT: You are not representing Mr.
4 Halverson, so you have no standing to object to any
5 order that is made with respect to Mr. Halverson.

6 MR. DALY: Insofar as it affects my client
7 I have.

8 THE COURT: Yes. But you have no standing
9 to represent him.

10 I mean, you are not representing him so if
11 I order him to come into court, and you are not
12 representing him, do you have any standing to object
13 to my order?

14 MR. DALY: Well, to the extent that it affects
15 my own client.

16 THE COURT: In what way does it affect your
17 client? He is not beneficiary of the trust, is he?
18 It is an irrevocable trust. He has nothing to do with
19 the trust anymore, does he?

20 MR. DALY: I don't know.

21 THE COURT: Have you read the file?

22 MR. DALY: You made a finding the trust was
23 set up by fraud. And if it was set up by fraud, it
24 never was in existence.

25 But in any event, the matter is not properly

1 before the Court because there has been no exigency
2 shown nor motion properly before the Court for an order
3 to show cause.

4 THE COURT: I just don't see, Mr. Daly, how
5 you can object to an order that I made with respect
6 to Mr. Halverson as to his appearance in court when
7 you don't represent him.

8 MR. DALY: Well, certainly anything that Mr.
9 Halverson might say here may or may not affect Mr.
10 Peterson, right?

11 THE COURT: That is correct.

12 MR. DALY: Then I have got a right to object
13 to anything that may or may not affect Mr. Peterson.

14 THE COURT: Go ahead and say it.

15 MR. DALY: I want the record to note an exception
16 to the order to show cause here this morning.

17 THE COURT: All right.

18 MR. DYGERT: If the Court please --

19 THE COURT: Are you through with that
20 particular matter?

21 MR. DALY: I want the record to show that we make
22 an exception upon the ground there is no motion
23 pending before the Court. There is no exigency shown.
24 There is no affidavit upon which to base an order to
25 show cause in the file.

1 MR. DYGERT: If the Court please, I would
2 like to possibly correct the record in one respect, in
3 that I believe the Court made a statement that the only
4 matter it reserved jurisdiction on was the matter of the
5 trust, and I want to invite the Court's attention to the
6 fact that you did reserve jurisdiction in respect to the
7 matter set out in Section 11 and 12 of your order for
8 judgment.

9 THE COURT: In my original findings?

10 MR. DYGERT: No. This is of the order for
11 judgment dated December 4, 1964, the last one.

12 THE COURT: The original is not on file.
13 Does anybody know where it is?

14 MR. DYGERT: It was returned to the file,
15 Your Honor, after having been served upon the parties
16 and after I found the defendant Palmer Peterson, and
17 therefore it is in the clerk's office.

18 Here is my copy of it.

19 THE COURT: Here it is. It is in the file.

20 Do you have the present order to show cause,
21 the original?

22 MR. DYGERT: That was put on file last Friday,
23 Your Honor, and apparently that has not found its way up
24 here.

25 THE COURT: Do you have a copy of it?

1 MR. DALY: I want the record to show a
2 further objection. There is no motion to open the
3 evidence by either party in this case, and that once
4 all parties have rested there must be a motion to open the
5 evidence before any further evidence can be taken.

6 Here is the point fundamentally I am making,
7 Your Honor: If plaintiff rested in this case without
8 producing sufficient evidence for the Court to make
9 a sufficient finding, that is the plaintiff's fault, that
10 isn't the defendant's fault nor the Court's fault. And
11 the Court has no right to bail him out of the trouble
12 that they are in or to re-open the evidence for them,
13 if they don't offer sufficient evidence for this Court
14 to make a complete finding with reference to the trust.
15 That is their tough luck. That isn't our fault.

16 Once the evidence is closed and the Court makes
17 its findings and order for judgment, that ends the matter.

18 And they rested. If they rested, if I bring
19 in a negligence case into this court and I rest for the
20 plaintiff, without proving the case of negligence, and
21 the defendant rests, the court makes its findings, that
22 ends the matter.

23 THE COURT: Well, Mr. Daly, suppose that the
24 evidence shows, and I can't recall just at the moment,
25 that there is \$8,000 in cash in the trust. And suppose

1 it shows that there were securities listed by name in
2 the amount of \$22,000 or so.

3 Suppose the Court reserves jurisdiction with
4 respect to disposition of the trust assets.

5 Can it make findings?

6 MR. DALY: The court has got to make findings
7 upon the evidence.

8 THE COURT: Suppose it hasn't. Can it make
9 the disposition?

10 See, this is for the benefit, frankly, of
11 Dr. Peterson, that I continued this, that I set up
12 the hearing, because it is very simple for me, for
13 example, upon finding that the trust should be set
14 aside, to order distribution fractionally percentagewise.

15 See, there is enough evidence for me to do that.
16 I am doing this for the benefit of Dr. Peterson, to find
17 out exactly what assets there are.

18 MR. DALY: He doesn't seem to think you have
19 done too much for his benefit.

20 THE COURT: I am not concerned with what Dr.
21 Peterson thinks.

22 MR. DALY: Dr. Peterson didn't bring this
23 divorce case.

24 THE COURT: I appreciate that.

25 MR. DALY: The wife brought it. He didn't sue

1 for this divorce. He set up a trust for the benefit
2 of his children and his brother and --

3 THE COURT: And who else?

4 MR. DALY: Well, I don't recall just who else.

5 THE COURT: Have you read the trust instrument?

6 MR. DALY: No, I haven't.

7 THE COURT: How can you talk about it?

8 MR. DALY: Just from what he tells me. I
9 can only tell you what he has told me because I wasn't
10 at the trial.

11 He set this trust up.

12 Now, if the man died, the most she could have
13 is a life estate in his homestead and a third of his
14 personal property, or a third of any other real property
15 he had. At least a man should be better off alive than
16 dead.

17 THE COURT: Let's not argue about the merits
18 of the case.

19 I am merely pointing out, I reserved jurisdiction
20 with respect to the trust. I made the determination
21 subsequently that the trust should be set aside.

22 I then set the matter down for hearing to
23 determine what value the trust now has.

24 On the basis of the evidence in the record we
25 know what value it had when the trust was created. We

1 know what the trust assets were worth.

2 I can very simply decree that a certain
3 percentage of the trust assets should go to the plaintiff
4 and a certain percentage to Dr. Peterson.

5 So the only purpose of the hearing was to find
6 out exactly what we have in the trust now in dollars and
7 cents, what the securities are worth.

8 MR. DALY: Dr. Peterson didn't make the
9 motion for -- you say this is for his benefit. But
10 he didn't make the motion here for additional evidence.
11 So we take the position it is not for his benefit.

12 THE COURT: Well, Mr. Daly, I think this,
13 that we will continue the matter until one week from
14 today so that I can consider the question of my
15 jurisdiction. And you file a brief on Thursday, the 7th.

16 MR. DALY: All right.

17 MR. DYGERT: If the Court please, counsel
18 is here and apparently has been in touch with Dr. Peterson,
19 as he knows, I believe, there is a bench warrant out for
20 Dr. Peterson.

21 And the sheriff is unable to find him at his
22 office or at his residence.

23 I would ask counsel to state here where he can
24 be served so that he can be brought in court on these
25 matters.

1 MR. DALY: I have no authority to disclose any
2 information of that nature.

3 MR. DYGERT: You do know?

4 MR. DALY: I say, I have no authority to
5 disclose. If I knew, I wouldn't have any authority
6 to disclose.

7 * * *

8 (Insert 12 pages of transcript previously
9 supplied.)

10 * * *

11 (After recess)

12 MR. DALY: First of all, as I understand it,
13 last Thursday my brother, Robert Daly, was here and
14 submitted the motion for amended findings.

15 I would like to have 20 days to file a brief.

16 THE COURT: You made a motion for amended
17 findings. There was no hearing.

18 MR. DALY: I asked him to submit it, which
19 I understand he did, and asked for time to file a brief
20 on it, you know, written brief on it.

21 And I want to re-apply to the Court for
22 20 days to file a brief on that motion.

23 THE COURT: You will have until January 15,
24 Mr. Daly.

25 MR. DALY: Very well.

1 THE COURT: Now, Mr. Halverson, I am ordering
2 you to report back on Thursday, January 7, at 9:00
3 o'clock before me.

4 The purpose of that will be so that you may
5 be available for giving testimony concerning the location
6 of the trust assets.

7 Mr. Pratt, do you want to make a statement?

8 MR. PRATT: If the Court please, I would
9 like to make a statement.

10 MR. DALY: I want the record to note an
11 exception to that order, and an exception to any hearing
12 on Thursday, unless it is done pursuant to lawful motion.

13 MR. DYGERT: Do I understand the Court
14 is continuing all matters pending until Thursday?

15 THE COURT: I am continuing all pending
16 matters until Thursday, January 7, at 9:00 o'clock.

17 Mr. Pratt.

18 MR. PRATT: Your Honor, my name is Desmond F.
19 Pratt, former attorney for the defendants in this case.

20 Some months ago I forwarded the substitution
21 of attorneys signed by me to Dr. Peterson, one of the
22 defendants, with the name of the attorney to be submitted
23 for me left blank, and in a covering letter I advised
24 Dr. Peterson that he could insert the name of whatever
25 attorney he might select to succeed me.

1 On December 31, 1964, I filed with the Clerk
2 in this case a notice of attorney's lien on behalf of
3 myself in the sum of \$1,330.00.

4 On December 31, I gave a copy of the notice of
5 attorney's lien to Mr. Dygert and Mr. Rorris, attorneys
6 for the plaintiff.

7 I now apply to the Court and request the Court,
8 and move the Court to summarily determine the validity
9 of my lien in this amount, and to make such an order as
10 is necessary for the payment of that lien out of the
11 assets of the defendants whom I represented which are
12 affected in this case.

13 I call the Court's attention to the fact today,
14 in this courtroom, the defendant Halverson, who is
15 a defendant individually and as a trustee, is present;
16 that the plaintiff, Mrs. Peterson, is present, that Mr.
17 Jerome Daly is present and has stated to the Court that
18 he represents the defendant Dr. Peterson.

19 I assume that Mr. Daly is here pursuant to
20 the substitution of attorneys which I gave to Dr.
21 Peterson by letter some months ago.

22 I am prepared today to prove up the amount
23 of my attorney's lien if it is the desire of the Court,
24 however, if that matter be postponed to another date,
25 I would suggest that the only notice which the Court

1 should order at this time is to furnish a copy of
2 the notice of attorney's lien to Mr. Daly and to Mr.
3 Halverson, the attorneys for Mrs. Peterson having already
4 received copies.

5 THE COURT: So ordered.

6 I will continue the matter until further order
7 of the Court, and I will set it down for hearing at
8 an appropriate time.

9 MR. PRATT: Do I understand that the matter of
10 mine will not then be considered on Thursday?

11 THE COURT: That is correct.

12 MR. DALY: Is that all, Your Honor?

13 THE COURT: I believe that is correct, Counsel.

14 (Which were all the proceedings had and
15 testimony taken in the above-entitled matter at said
16 time.)

17 -O-
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