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- 11 Q No - I am talking now about a contract whereby you had a portion of the earnings of Miss Minter.
 A My attorney arranged it. I don't remember whether it was done in New York City by Mr. Dennis O'Brien, of O'Brien, Malevinsky & Driscoll, or if it were here with my attorney - Mr. Kott.
- 17 Q Now, I am asking you one specific, very definite question; what percent age did that contract give you, as you remember it?
 A To the best of my recollection I think it was thirty percent.
 Q Of the gross earnings?
 A Yes, of the gross.
 Q You don't remember whether that contract was made before April 1, 1920 or after April 1, 1920, do you?
 A No.
- 18 A She had been on the stage in New York since she was five years old.
 Q All right; she had been since she had been five.
 MR. LEWINSON: Well, now, I don't know whether you are putting a construction on the witness' answer which is not justified. She said she had been on the stage since she was five.
 MR. STERRY: That is what I understand.
- 19 MR. LEWINSON: The Famous-Players Lasky contract, I think would be practical.
 MR. STERRY: Let's say "Famous Players contract."
 Q Mrs. Shelby, for brevity of designation, we will refer to this contract that you negotiated for your daughter and dated June 17, 1919, as the Famous Players contract.
 MR. LEWINSON: I think you will find it has always been referred to as the Famous Players Lasky contract, and so may it be understood that it may be referred to inter-changeably as the Famous Players and the Famous Players-Lasky?
 MR. STERRY: All right.
- 18 MR. LEWINSON: And as I understand, she had made pictures, since she was twelve.
 MR. STERRY: Yes, that is what I gathered.
 Q Is that correct, madam?
 A That is correct.
 Q Now, this contract with the Famous Players was made on the 17th of June 1919 - that is, subject always to correction, because this is simply - the only information which I have is this copy which I have. Prior to April 1, 1920 had you kept any separate account of your daughter's earnings from your own accounts?
 A I have no books.
 Q I did not ask you that. Read the question.
 A I remember the question. Yes, I kept a separate account - to a degree - yes.
 Q Well, perhaps the question may have been somewhat ambiguous. Put it this way: prior to April 1, 1920, what did you do with Miss Minter's earnings? By that, I mean simply this: did you take them as your own, on the theory that she was a minor, or did you put any part of them in a separate bank account?
 A It was in one bank account - or in several bank accounts; I can't say just one.
 Q Well, was it in her name or yours?
 A Some of it was in her name; some in mine.
 Q All right; now, on April 1, 1920, from then on did you collect the moneys due Miss Minter under this contract? (How shall we designate this contract?)

19 Q Now, after April 1, 1920, did you receive the payments due Miss Minter under the Famous Players contract?
A Naturally, as Miss Minter's mother and her business manager I collected.

20 Q I didn't ask you that. Just answer the question yes or no.
A I collected the moneys; I collected the moneys from the studio, yes.
Q Do you remember how you collected them, whether they were in currency or by check?
A By check.
Q Do you remember how the checks were payable?
A To Mary Miles Minter.
Q And when you collected them what did you do with them?
A I signed them and deposited them in the bank.
Q You say you signed them; you mean you signed your daughter's name to them?
A Yes, I have always signed her name to her checks.
Q In whose name did you deposit them?
A In my name, principally - for the investment account. I deposited some in her name.
Q I didn't ask you anything about an investment account. We will come to that later. I am asking you now about your bank account. Did you keep any bank account in the name of Mary Miles Minter?
A I kept a checking account in her name.
Q With what bank?
A First National Bank of Los Angeles.

21 Q And you had a bank account in the First National Bank in your own name?
A Yes;
Q Did you deposit the seventy percent of her checks in her name?
A No.
Q Have you any idea what percentage you did deposit in her name? I am talking now from April 1st on - April 1, 1920.
A I can't answer you. I kept no memory in perfect detail of the banking account. I deposited earnings with the exception of her checking account, in the First National Bank of Los Angeles.
Q Well, you made all your deposits there in your name, did you not?
A Not altogether. She had a checking account.
Q And about how much did that average, if you remember?
A Whatever she called for or she needed.
Q Read the question for the witness.
A I can't answer you how much. I don't remember. I will state this, if you wish to know it; Mr. John Burke was interested in my family and my children, and he took a great interest in Mary and wanted to keep her checking account, what little banking business she might have - and did do so; he tried to keep her in hand with her checking account.

22 Q Oh, Madam, you are going on with matters that we are not concerned with at all.
A Oh, no, it is of importance.
MR. STERRY: I move to strike that out. Well, you can have your counsel bring it out. It is not germane to anything I asked you.
THE WITNESS: My daughter was given a checking account which she used for just spending money around the studio, and whatever she needed.
Q And the rest of the money you deposited in your own personal account?
A Yes; in the name of Charlotte Shelby.
Q Now, I will ask you this before we leave it; have you any idea how much per month you deposited to the credit of your daughter Mary?
A No, I don't remember. Sometimes she used no checking account at all, and sometimes it was all gone in a day. I can't possibly remember.
Q Could you give any approximate amount?
A No. The statement would show.
MR. LEWINSON: She can only guess at it.
MR. STERRY: Well, the witness does not seem even inclined to guess.
MR. LEWINSON: I don't think she should guess.
THE WITNESS: I don't like guessing.

23 Q BY MR. STERRY: When did you first meet Mr. Leslie Henry?
A I met Leslie Henry when he was speaking on the tank which my daughter had out on the Liberty Loan Drive in San Diego during the war.
Q Do you remember what year?
A No, I don't.
Q Do you remember your first business transaction with Mr. Henry?
A Yes.
Q And when was it, if you remember?
A It was in the winter of 1919-1920, and it was in Mr. Babcock's office in the office of Blyth, Witter & Company.
Q What was the nature of that transaction?

28 Q Did you buy any securities at that trip from anyone?
A No, I did not. I did not go there to buy any securities that day from anyone.
Q All right; you went there just to --
A To investigate; to meet this man David Babcock and look them over. I don't know bond houses. I never went into another bond house in my life before that.
Q What if anything did Mr. Babcock say at that time about Mr. Henry being the manager or something? I am asking you that because your counsel accused me of cutting you off in a former answer.
A Of course Mr. Babcock explained to me he was the manager.
Q That is Babcock, you meant?
A Mr. Babcock explained to me he was the manager; our visit was purely social in the beginning. When he found who it was calling to see him, naturally he knew me and knew of my daughter; he asked me about her sale and if it were true that she had a contract for \$1,300,000. and I said it was; and he spoke of her Liberty Loan drive and said that Mr. Henry had met her on the drive; and Mr. Henry appeared in the room. Mr. Babcock - I think he was passing, and Mr. Babcock called him in and introduced us, said we had met before, and I said "Yes". Then we talked of my daughter's - shall I say, if you will pardon me - I don't want to brag or anything like that, but my daughter was very beautiful and very talented, and a very brilliant young girl; had attained a great success both as a child actress on the New York stage, and in pictures. It was commented upon, and her earning power was discussed, and the possibility to which her little stepping stone of the present contract might lead, involving a large fortune, possibly; and Mr. Henry and Mr. Babcock discussed the classification of securities, and how the investments best be handled; I told them I know nothing about bonds; I had never bought bonds through a bond house, and had relied upon my attorney, and on my banker - they made the selections for me; that I would abide by their decision; and I was afraid I would have to do the same way with the firm of Blyth, Witter & Company; I was not capable of selecting bonds. I knew nothing about securities. So Mr. Babcock naturally was very glad to have such a lot of money put in that firm - expressed his gratitude and appreciation for my having come there, and appointed Mr. Henry as the salesman, explaining that he was the manager and Mr. Henry was the salesman; that he - Mr. Babcock himself - would watch with great interest how this investment would grow, and would advise me and give it attention, because they knew that was my ambition and my intention - to make my daughter's financial career grow with her artistic career - a foundation to be laid for her future and her fortune; and the very best of service would be rendered me.

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30 Q Who said that?
A Both Mr. David Babcock and Leslie Henry.
Q Are you giving their exact words?
A No, I can't give you exactly the words. I can only give you the substance because it was a long visit and a great deal was said.

30 Q Have you given us all you can remember being said at that particular time and place?
A Oh, no, I have not given you all.
Q Well, then, go ahead. We will take lots of time.
A I am afraid that would bore you - so much was said about my beautiful daughter; so much was said about her work during the war.
Q Well, let's leave out the personal part.
A Well, that is what was said; and I am telling you what was said. It was known that she had created one of the greatest successes with the drive; she was a very patriotic young girl; she was the spirit of young American girlhood; her voice was exceptionally clear, her diction very beautiful, and her success great in the sale on the Liberty Loan drive. We discussed the fact that I had bought so many Liberty Loan bonds. I said perhaps it came about just naturally; whenever my daughter sold a block of bonds, she bought one - it was to inspire buying in other people.

31 Q You may leave out entirely any question of personal import, as to the discussion of your daughter's success, and duty, and all that sort of thing. Can you tell us whether there was any other matter of business discussed with you, the substance of which you have not given us?
A Yes, there was a lengthy conversation between Mr. Babcock and Mr. Henry regarding the type of securities that I should have.

32 Q Did you participate in that conversation?
A No; I was not capable of participating in the conversation. I had stated I knew nothing about securities.
Q And were you able to follow it, or was it, to use a slang expression, Greek to you?
A It was entirely over my head.
Q Entirely over your head?
A Yes.
Q All right; now, was there any other matter of business discussed there at that time?
A These two subjects were the ones involved principally. I don't remember others.
Q Now, you did tell them that you wanted to make investments for your daughter?
A For the family; for my daughter, principally, since she had great earning power at that time.
Q Well, will you be good enough now to tell me in substance what was said about making investments for your daughter Mary?
A I think I just you that Mr. Babcock understood that I was very ambitious to build a foundation --
Q Don't tell me what he understood.
A And that I told him --
Q Wait a minute, Madam. As to what he understood you may be correct, and you may not be correct. I am asking you to the best of your recollection to tell me the substance of what you told him. Now, if you can't remember it, that is all right.
A I told him, of course, that the bulk of all that could be saved for Mary would be put in bonds.
Q Did you say anything at that time as to whether they were to be put in your name or Mary's name?
A I don't recall discussing anybody's name at that time.
Q Wait, just a minute. I am asking you about your first conversation with Mr. Babcock.
A Oh, I do recall something they said --

NR. LEWINSON: Just a minute. I want to object to the question on the ground that it is unintelligible to me and possibly to the witness; although if the witness understands it - I don't remember of her answering it. The question refers to buying bonds in someone's name. I object on the ground it is unintelligible because bonds of the kind you refer to are bearer bonds, and if it means registered, I think the question ought to be rephrased so as to indicate that.

33 MR. STERRY: Well, if your witness would give me time to complete the question, Mr. Lewinson, instead of cutting it short, I might obviate some of your objections.
MR. LEWINSON: All right.

34 Q and what if anything did you say in reply to that, if you remember?
A Well, of course I made no reply to it. I didn't know anything about it. I did not understand income tax business nor did I understand the bond business or stock business. Preferred stock, I was always told, was as good as a bond.

Q Well, I understand that at this first meeting you had made no purchase of any kind, nor authorized any made for you?

35 A No. I had bought securities through Stoddard Jess when I came here, but we were loaded up on Liberty Bonds.

Q You say you were loaded up on Liberty Bonds?

A Yes, for our financial status.

Q About how many in par value in Liberty Bonds did you personally have at that time, do you remember?

A Do you mean I personally, separated from my daughter Mary?

Q Yes.

A I don't know.

Q All right; how many did Mary have, separated personally from you?

A I don't know. I only remember one check, in substance, of \$20,000 that was handed to Mr. McKee.

Q All right; then, if you can't separate them, can you give us an idea of how many Mary and yourself together had?

A I don't remember that. A substantial amount, for our status financially.

Q Well, have you any idea how much approximately?

A It might have been 50, it might have been 40, it might have been 60; I don't remember.

44 A Sometimes I left a check at the cashier's window, sometimes I mailed a check, and sometimes I left it at Mr. Babcock's desk; sometimes I handed it to Mr. Henry. I cannot be more specific than that.

46 A I gave them no check in advance of receiving the investment - the bonds or the stock.

48 Q Well, did you give them a list of your previous holdings?

A At some future time, by appointment, Mr. Henry got me - or rather I went to the Blyth, Witter offices, and Mr. Henry went over to the box with me and listed the securities that were there.

49-A Q Did you instruct either Mr. Babcock or Mr. Henry to purchase securities in the name of your mother?

A No; Mr. Babcock and Mr. Henry discussed the diversity of purchases after I had related to them what an income tax specialist had told me; and I believe it had been used in the accounting with some other of the stars because of the large surtax and the heavy income of money, and it had been suggested to me that if the account was distributed with the other members of the family that it would considerably relieve the paying of a very large surtax.

Q You say it had been suggested?

A Yes.

Q Who made that suggestion?

A The party who was then making up my income tax reports. She was a Miss Marjorie Berger.

Q She was the one who suggested it to you?

A Yes, she made the reports of most of the - a great many of the - stars in the motion picture business; stars and directors. And she did not say "Do it." She said it had been done in the report of others, and she thought it was a very fine thing; I mentioned it casually to Mr. Henry and Mr. Babcock, and they thought it was very fine - "We will do that".

50 Q Can you place the time when Miss Berger made this suggestion to you?
A Well, it was during the winter of 1919 and 1920. It was while she was making out the income tax report, which was filed before March, 1920.

52 Q When any bonds were bought for you, you were given a bill for the bonds and gave a check, did you not?
A In the beginning there was a bill given to me. It meant nothing to me. I was handed the securities and I handed over the check, if there was a bill attached; in the first beginning, I signed some things, I remember;
53 but that was long since abandoned. We all came to know each other pretty well; they, and I think we all, trusted each other. I know I did.
Q Well, you say, then, that towards the end the securities were delivered without bills?
MR. LEWINSON: Well, she did not say towards the end. She said after the beginning.
THE WITNESS: After the very few first purchases.
Q BY MR. STERRY: About how long after the first purchases was it that they ceased to give you bills with the securities and just handed the securities to you?
A I don't remember.
Q Couldn't you give us an idea?
A Not the slightest idea.

54 Q The bonds were not bought through anybody's name; I, Charlotte Shelby, had so much money to invest - I said "I will take them upon a certain day; I will be there for them." I would arrive at the office; the securities would be handed to me, and I would write out the check; and there was the check. In other words, I took the securities and Blyth & Company took the check. Whatever piece of paper there was to sign meant nothing in my life. The securities were not bought in anybody's name, as far as I was concerned - not put in anybody's name; here was the money, here was the bond house, here was the investment; I put this investment in the bank vault and forgot it until the coupon was to be clipped, or it was suggested through Mr. Henry that it would be better to exchange it or sell it for something else. That is as clear a picture as I can give to you.

55 THE WITNESS: To me, it was not important, because Mr. Henry then, along
56 along when I first started buying securities there - either Mr. Henry or Mr. Babcock - saw to it that I got a little black book, "Blyth, Witter & Company" on the back of it; and in that little book were made notations of every bond purchased, the date of purchase, and the price paid; and when exchanged, the same method was taken. So this little book of Blyth, Witter & Company's that I had for so many years had every original investment; it had every investment listed in that that was taken from the vault in the First National Bank before I started - I mean at the time of my starting - with Blyth, Witter & Company, when they listed the securities then on hand - and every investment was listed in that book, and the bonds were all numbered; it was complete in every detail. And that little book was the book that I want by.
Q All right; where is that book?
A Mr. Henry told me he lost that book in 1925; it was very upsetting to me I valued it so highly; but we made - he suggested so many changes, so many exchanges, so many sales, and so many - take the profit of this and buy that - in 1925 and 1926 - that that book became very voluminous.

57 A Mr. Henry told me he lost the book in 1925, when I gave it to him to bring it up to date.
Q Have you got a book now?
A I had one that Mr. Henry had made for me after he lost, admittedly lost, that book in 1925.
Q All right. Now, please, yes or no - you don't know where the original investment book is?

- 57 A I only know what Mr. Henry told me; so I don't know where it is.
Q Well, he, then, in 1925, told you that the book had been lost?
A Yes.
Q How did it happen to be in his possession?
A I was telling you, Mr. Sterry, if you will remember --
MR. LEWINSON: Well, just tell him now.
THE WITNESS: --that he was making so many changes, so many new investments, so many exchanges, that the book became quite large, and in the back of it so many investments that were no longer held, that Mr. Henry suggested he would take the book and that he would bring it up to date. I said, "Take it with you then and bring it up to date with all of the investment in it;" he took it with him and forgot to bring it back, on several occasions when he said he would hand it to me down at the office; and I called him several times about it, and finally he came out to the house in 1925 and said he just couldn't find the book; he had looked everywhere for it and he simply had lost it. It upset me frightfully, because that was my registered account of everything that had been done up to date; but he was very repentant and said he would make up another one, and he was two or three weeks getting another one made up, and he finally came back with a brand new book, and brand new sheets, and an entirely new set-up.
- 58 Q Have you got that book?
A Yes, I have it. It is in the possession of my attorney.
- 61 Q All right; now, when he brought it back, did you check it with your securities which you had to see if it was correct?
A No, I did not; I only checked it when I went down to clip the coupons that were due; in that manner I checked it; I did not sit down in that box and check each one off with the book he gave me.
(Aside to her counsel.) Perfectly terrible.
Q Well, as long as we are speaking of - where were your securities at that time?
A The First National Bank box, in the First National Bank. Up in the neighborhood from time to time we had had very heavy investments, my daughter and I - held an auction - and sometimes the securities were put either in a box under the Ambassador Hotel bank, or on the corner of Eighth and Vermont; I don't remember; but anyway -
- 62 Q I didn't ask you about the beginning. I am asking you now about the specific time that you got this new investment bank book - you had all the securities that you had purchased from Blyth & Company through
63 Mr. Henry - you had them all in either one or two boxes, or three - I don't care which - but you had them all under your personal control, did you not?
A Yes.
- 65 Q Did you ever take Mr. Henry to your box with you to clip coupons?
A No, I never took him to the box with me to clip coupons; he went to the box with me on several occasions, to walk across the street after I had taken delivery of investments in Blyth's offices, or to meet me there possibly in some great haste to deliver securities, or to meet me at my apartment for an exchange, or when a bond was called; something like that; but not to clip coupons; I clipped the coupons myself and cashed them myself.
Q Did you know anything about his abstracting from your safety deposit box \$35,000 of the Pacific Western - well, I have forgotten the name.
- 66 MR. LEWINSON: Western States Gas & Electric Company.
MR. STERRY: (Continuing question.) - Western States Gas & Electric Company bonds - until after his confession?
A Of course I didn't. I never heard of it until my accountant informed me of the discovery made by Blyth & Company - in his confession, that he had done so.

- 66 Q Well, didn't you miss coupons of those?
 A No; the book didn't have that investment in it, and I apparently forgot I had it - got it mixed up in the vast amount of exchanges; and I never thought of it again.
- Q Now, have you got any way that you can tell us before the deposition is closed, of the amount of Liberty Bonds that you and your two daughters had between you at the time you first started -
 A No, I can't; my mother had some -
- 67 Q You were receiving weekly payments that were coming each week on checks as I understand your testimony, made out to your daughter, Mary Miles Winter; and you would endorse her name on the same and deposit it in the bank to your credit?
 A Yes; some of it went to her for her checking account.
 Q You gave her whatever she wanted for her checking account?
 A I gave her whatever she wanted for the checking account.
 Q But from this banking account, which was in your name, you drew the checks to pay for the securities which you were buying?
 A Yes, naturally I did.
- 68 Q All right; now, did you keep any book of account showing bonds or other securities purchased for your daughter Mary and those purchased for yourself or other members of your family?
 A I was not concerned about those purchased for the other members of the family. My mother did not have any account with Blyth, Witter & Company; and my daughter, Mrs. Fillmore, was then not making sufficient money to buy bonds with. I didn't buy any bonds or securities in anybody's name whatever they were put in was told to me when the income tax report was made out at the end of the year - so much for Mrs. Miles and so much for Miss Margaret Shelby, and so much and so on.
 Q Will you read the question?
 A I don't know. I answered your question.
 (Question read)
- MR. STERRY: That question is certainly understandable and susceptible of an answer.
 A. No.
 Q Did you keep any kind of a record -
- 81 A She was Miss Shelby up until May, 1925, when she was married to Mr. Fillmore. Then she became Mrs. Fillmore.
- 83 A I told you that it had been mentioned or suggested or told to me that other stars whose salaries were very large were spreading their investments among the family; I had been told so by my income tax specialist. And I mentioned that to Mr. Henry and Mr. Babcock, and they said that was a very fine thing to do; "that is very fine;" and it was forgotten. I never spoke of it again - they never spoke of it again - and I didn't know until the end of the year, when the income tax specialist was again making up the income tax report, that there was segregation of bonds bought through the firm of Blyth, Witter & Company, in the names of my mother and my elder daughter, who was then Miss Shelby; I remember mentioning it to my mother, and she said "Oh, no, no; don't - I won't have that; oh, no, no;" and she was quite disturbed about it, and she said "I don't like it. No, no, no;" she said, "I won't have that;" she said "Why, I might die and Mary would have to pay an inheritance tax; no, I won't have that at all." And I told that to Mr. Henry, "Well, he said, "all right, then; we won't have it that way."
- 85 A I did not buy bonds in anybody's name. I said "I will take 5,000, 10,000, 15,000 or 20,000, in securities, I will be here a certain day to pick them up, and I will give you my check and you hand me the bonds". There was no discussion of whose name they were bought in at any time. Please get it clear and remember it.

86 A It was absurd. Miss Shelby had the same success in her artistic career as Miss Mary Miles Minter in her career.
Q How long did Miss Margaret's career last?
A Until she went into the real estate business.
Q What time was that?
A In 1919; 1919 - or beginning 1920, in active business.

88 A My daughter's first activities in the real estate business began in 1922. She came out from New York in 1919.
Q Was she doing business independently or with some firm?
A Independently; and later, with two firms - or three or four - oh, there were so many firms - I can't answer for Mrs. Fillmore.
Q Did she give you any money to invest for her?
A Not until 1923.
Q Not until 1923?
A She did her own investing up until that time. It was all in the real estate business.
Q Did you at any time in 1920, '21, '22 or '23 tell Mr. Henry that your daughter, Miss Minter, owed your mother a great deal of money - which you could establish if it was ever challenged - because of the fact that your mother had financed her in her early career?
A That is perfectly absurd. Certainly not; my mother had not financed her and my mother made no such claim. Money was the last thing that was talked of in our home.

89 Q Well, then, neither your mother, Mrs. Miles, nor your daughter, Miss Margaret, had any claim at all upon the earnings of your daughter Miss Mary?
A They had no claim and they made no claim, and they never mentioned the subject.
Q And Miss Margaret gave you no money to invest until some time in 1923?
A Yes; she invested her own money.
Q And in 1923, from then on, did she give you any money to invest for her?
A Yes.
Q And you invested that in the same way that you had the funds of your daughter Mary?
A Yes.

93 Q Well, now, then, what I meant by the question I asked you a little while ago, that Mr. Lewinson said was unintelligible, asking you if you invested Miss Margaret's funds in the same way, was whether or not you would also order securities that were intended for her and take them in the same way, deposit her earnings that she would give you in your general fund?
A Sometimes it was in our savings account in my name; but a considerable time it was in her name. Her investment funds, I think she usually put them in my bank.

95 A Oh, from time to time. We lived at the Ambassador Hotel and we kept a box there; and after some time, I was ill and couldn't get down to my box, and I would put securities in an uptown bank; I think down at the corner of Eighth and Vermont. I have forgotten the name of it. That was Mr. Baer's bank. I can't remember the bank but I can remember the man. And then when I became active in real estate, through my daughter Miss Shelby, I found, in having some subdivisions and real estate trust, that their activities - the escrows - were taken, many of them, through the old bank down there at -

96 MR. LEWINSON: The Guaranty Bank.
THE WITNESS: I think that is the name.
MR. LEWINSON: German American.
THE WITNESS: Whatever you call that; Mr. Zimmerman's bank, or Ray Church's.

97 THE WITNESS: Guaranty, yes. I had one there for realty; my daughter had one there for real estate purposes.

98 Q Did you at any time within that period - that is, from the time you first met Mr. Henry and Mr. Babcock up until the time you went to Europe in 1926 - discuss with them or either of them the purchase of securities in fictitious names?

A No, I didn't know anything about any fictitious names.

Q And you did not know that securities were being purchased in fictitious names?

99 A No.

Q Did you have any reason or desire for having your securities so purchased and placed that no one could trace them?

A Certainly not. Besides, they could be traced on the bank books.

Q And you had no desire to prevent the Government or your daughter Mary from knowing how much you had purchased?

A No.

100 Q BY MR. STERRY: Did you ever know that any securities were being purchased in the name of Mrs. Rosalie Hickenbaugh?

A No, I never bought securities in anybody's name; I ordered some securities which it was suggested I purchase; I bought them; the securities were delivered to me; I handed the check over. There was a little paper or something I signed at some time in the beginning of this thing, and that was soon after abandoned - no more little papers; sometimes I would sign them and sometimes not; I finally finished with signing those little papers. I don't know what you call them. The term I don't remember, the name of it; but I did insist upon getting - I see you have statements there - statements were sent to me, and up until the very time of November 11, 1932, I insisted upon getting a monthly statement from Blyth, Witter & Company, and Blyth & Company, and I got them.

103 THE WITNESS: I was very proud of being associated with a firm whose growth I participated in, for they handled every dollar that I earned and my

104 two children earned from 1919 to the present time.

Q Well, now, you say "you earned." Did you have any earnings, other than the thirty per cent from the moneys out of your daughter's - Miss Mary Miles Minter's - money?

A I have always earned money. I have never had anyone to provide for me, so I have been left dependent upon myself to provide the wherewithal for myself and my children until they could make money.

Q All right; now what earnings did you have outside of the thirty per cent from Miss Minter's contract what other earnings did you have?

A I was in no other business at that particular time except as manager for my daughter.

Q Well, all right, did you have any other earnings during that period except from her contract?

MR. GEMINSON: During what period?

MR. STERRY: During the period, say, from 1921 to the end of the contract period; as I remember, that was in 1923.

A Yes, I had earnings in real estate; I had made money in real estate.

Q When you say "in real estate," you were not acting as an agent or broker you were simply making money by buying and selling?

A Buying and selling; my daughter was the broker.

105 Q All right; now, have you got any statement - can you give us a statement before our deposition is closed, or, say by tomorrow morning, of your earnings in real estate during the time from 1920 up until 1926, when you sailed for Europe?

A No; I wish I did know. If I knew now, I would know how much more Henry stole from me than what he confessed to stealing; I don't know.

Q Did you keep any books of your earnings?

A No. I invested the money in Blyth, Witter & Company and I had their books to show what had been bought - earned.

109 MR. STERRY: I want to show your Exhibits from Henry's deposition, 31, 32, 33, 34, 36, 37, 38 and 39-A, 39-B - and we can lump these in sequence to 39-KK; I will ask you to look at all of those, and take plenty of time, and tell me whether or not the words "C. Shelby" or "Charlotte Shelby" are in your handwriting or not?

A Where did you get those? I don't know! You better get a handwriting expert to testify.

MR. LEWINSON: Just a minute. In order to get this thing clearly before us may I ask the question read, and may I ask the witness after hearing the question read, to examine these Exhibits 31 to 39-KK one by one, before answering the question, if I may be permitted to do that?

115 A I acquiesced with his request and signed "Charlotte Van Der Hayden," as he asked me to; and wrote it out as he spelled it to me.

131 Q About what time of the year did she leave home?
A In the autumn of 1922.

134 A Abiding by my counsel, I will state the person's name. It was Lewis Sharwin.
Q He did not come into the house with your daughter?
A No.

142 Q Did you ever prepare any statement attempting to show the amount of money that you had invested for your daughter Mary?
A No.
Q Did you ever prepare or have anyone prepare a statement for you?
A I never asked anyone to.
Q Now, Mary finally employed counsel to represent her, did she not?
A Oh, after some time; I don't remember at what time it was, but some time after she left home.
Q Did you employ any counsel to represent you?
A No, I didn't employ any counsel to represent me. I only went to my attorney, Mr. Mott, who represented the family - Mary as well as myself.
Q You went to Mr. Mott at what time?
A Oh, I had always gone to Mr. Mott since he had been recommended by my attorney, Dennis O'Brien in New York City, out here.

143 Q Mary was at first represented by Mr. Neil McCarthy was she not?
A Yes, she engaged him first; or rather, he was engaged for her first; she did not engage him.

145 THE WITNESS: It is a simple matter. I had decided before I bought the
146 property in Laughlin Park that I would take a substantial part, or a part, of the thirty percent which had been allotted to me by mutual agreement of counsel, and Mary - and that I would put what little I could save into real estate; and that is how I know that that which I put into real estate were moneys that I had in mind investing for the purpose of seeing if I could make something other than just interest on bonds, or just - in other words, I would put money allotted to me in real estate, but I couldn't afford to put any money of my daughter's in real estate, because of the uncertainty of it; I felt sure - my banker, my lawyer, and my bond house all told me "Bonds are the things to invest Mary's money in," but I was willing to take a little part that I earned as her manager and see what I could do in the real estate business.

Q Then am I to understand that in this mental record which you kept of these transactions, the bonds that you bought were here and the money you put in real estate was yours?
A I never invested any of Mary's money in real estate.
(Question read)

THE WITNESS: I did not put any of her money in real estate. I put that which had been allotted to me in real estate. Her bonds were put in a safe investment, as I thought, with the advice of my counsel and my banker.

147 MR. STERRY: Move to strike out "on the advice of her counsel and her banker" as something I did not ask her.

Q Madam, the point I am getting at is: did you invest all your thirty percent in real estate, or did you claim an interest in some of the bonds which you had bought?

A No, I did not consume all of the thirty percent allotted to me; a portion of it - in real estate. The rest was invested in bonds.

149 Q Now, when did you return from Europe on your last trip?

A November, 1929.

Q When you left for Europe in the summer or spring of 1926 did you take any securities with you?

A Yes.

Q And had you left any here?

A Yes, Mrs. Fillmore had some.

Q Had you left them with Mr. Henry?

A No.

Q You had not?

A No.

150 Q To whom had you delivered them?

A Mrs. Fillmore had possession of them.

Q Well, she joined you some time later, didn't she?

A She made two visits to me.

Q Well, all right; she joined you; she came back with you in 1929, did she not?

A Yes, I returned with Mrs. Fillmore in 1929.

Q When were her two visits to you?

A The first one, in 1927.

Q Approximately how long did she stay?

MR. LEWINSON: Well, just a minute. The question has not been answered. You asked for two visits. She has stated one.

MR. STERRY: I asked her when she made her first, and she said she made it in 1927.

MR. LEWINSON: Well, I thought you had asked her about two, and she answered as to one.

Q BY MR. STERRY: How long did she stay at that time, approximately?

A She returned in October, 1927.

Q Well, what time did she get there in 1927?

A During the summer.

Q Now, then, the next trip, when did she join you - on the second?

A In the spring.

151 Q Of 1921?

A Yes.

Q Now, did you understand from her that she had left any of her securities with Mr. Henry?

A Yes.

152 A I think it was around some \$26,000 that Mrs. Fillmore had when I left here, in her possession.

Q BY MR. STERRY: Now, did you have any information from either Margaret or Miss Margaret's having given him any further securities? You say \$26,000.

A Yes, I had some delivered to Mrs. Fillmore after I left here.

Q Well, when Mrs. Fillmore returned in 1927, you sent back some securities by her, did you not?

153 A Yes; about \$85,000 worth.

Q Well, Mrs. Shelby, it is my information - I may be wrong - but my impression is that there had been about \$63,500, some such amount as that, delivered to Mr. Henry before this \$85,000 was brought back. Is that correct?

- 153 Q BY MR. STERRY: You have said that the securities that Margaret wrote you about was \$26,000; how was the other \$40,000 odd delivered to him? Do I make myself clear?
- A I don't remember figures. I do know this: that I purchased and had delivered to Mrs. Fillmore after I left here, through a firm in Frankfo Germany, \$28,000 and some odd dollars of Westphalia bonds; they were delivered to Mrs. Fillmore; and Mr. Henry afterwards got them away from her.
- 154 Q Well, then without going into detail, unless you counsel wants to bring it out, which I never have objected to, it is a fact that before Mrs. Fillmore returned in 1927 you understood that there had been delivered to Mr. Henry something like \$63,000? I am not trying to pin you down to the exact amount.
- A Something around \$63,500.
- Q And there was approximately \$85,000 which you delivered to Mrs. Fillmore to give to Henry when she came back in 1927?
- A Yes.
- Q So that in round figures, just in round figures, there was something between \$145,000 and \$150,000 in bonds that he had gotten by some method from Mrs. Fillmore?
- A Yes, and Mrs. Fillmore was investing the accrued interest from time to time; I didn't know exactly how much she invested after I left.
- 155 Q BY MR. STERRY: Do I understand that it was your understanding that in addition to the principal amount of the bonds, that Mrs. Fillmore had also invested through Henry the accrued interest and that he had or should have had securities representing that accrued interest, is that correct?
- A That is a fact.
- Q You don't know how much that accrued interest would be?
- A No.
- Q Well, then, when you returned in 1929 you did know that he had at least, or should have had, approximately \$150,000 of securities in par value, perhaps more?
- A Considerably more than that, because he had been calling securities from Europe from time to time.
- 158 Q Now, you think his statement - when you speak of the Biltmore, you speak of the statement which he made over at the Biltmore Hotel?
- A Yes; he came nearer telling the truth in that statement than he ever reached at any other time.
- 159 Q But his statement, you say, in the Biltmore statement with reference to what he told you about the syndicate is substantially correct?
- A As nearly as I can remember it, yes.
- 162 Q As I understand you, in substance, he told you he had had this position as syndicate manager, that he had placed your securities in this syndicate in one of the New York banks, through a bank in Azusa, and that that was a privilege which was accorded only a few, but that it had been given you as an old client of Slyth's; and that they would pay you some small amount of one percent, something like that, which was payable quarterly on that, and that your interest would be paid you; and that he hoped to be able, as syndicate manager, to retrieve the losses which you had sustained on Sutter Basin and Key System; and of course while the conversation lasted a great length, was there any other reason for depositing those bonds mentioned by Henry, than as I have stated?

- 163 A The second time - I mean the second time when the three months was up - he went into detail about something that he mentioned casually the first trip - or casually the first time I saw him when I returned; he said something about, well, it was a very fine thing, because while the bonds were in this syndicate, there would be no income tax to pay, because it had been so arranged that while these bonds were put up through the various banks he mentioned, something around \$5,000,000, that the syndicate - or the banks, or the banks, or whatever the thing was - paid the tax on that. It was a very small amount; it didn't concern me to any extent; and I said well, I wouldn't be interested - I wasn't interested in the \$249.50 or the \$250.00 quarterly, and the amount of the tax saved by the syndicate assuming that responsibility; I felt that even that did not compensate me for being annoyed; and after all, I was interested in only one thing; I wanted to put my house in order; I wanted my girls to assume the responsibility of their securities, and I wanted them taught and shown and educated in the handling of them; that my health had been so wrecked, and was none too good at that time; and my daughter had anticipated making me comfortable in her little house in Beverly Hills - and I rather looked towards the recovery to be in a garden.
- 164 Q It is a fact, however, that from your return in the fall of 1929, he never did return any of your securities to you?
A No.
- 165 Q My understanding is that in his first conversation, he told you they were pledged for ninety days, and then when that was up he told you they had made another pledge of ninety days?
A Well, I said, if it comes to either one of them holding any stock temporarily, Mr. Henry, it will have to be Mrs. Fillmore; at least, you know, she is in contact with you; and she knows that you will do everything for her advantage.
- 171 Q And your mother had died when?
A She had not died then. She died in 1925 - December.
Q You inherited some real property from your mother?
A No; I naturally would have been the heir, but I did not accept it.
Q You assigned it or sold it to Mrs. Fillmore, did you not?
A It was my mother's wish and my wish that Mrs. Fillmore would inherit directly from my mother whatever my mother had, which was in lands - not in money.
- 184 A Yes; the first time I went to New Orleans after my return from Europe was after my mother's death in 1925. I think I went in January, 1926, to appear in the settling of my mother's estate - or in a suit, rather, that had been developed after my mother's death.
Q You went on from New Orleans to New York, did you not?
A Not directly, no.
Q Well, did you ultimately go to New York?
A Yes.
- 185 A I went from New Orleans to Florida; and having recuperated from illness in Florida, for which I was forced to go to a hot climate immediately, after recuperating, I went to New York. And I think it was some time in February; the latter part of January or the first of February.
Q What hotel did you stay at in New York, do you remember?
A I went to Louisiana by appointment to meet an attorney, and to visit a relative.
Q Well, I didn't ask you that.
A And to appear in the suit which had been filed against my mother's estate and having been born in Louisiana, having a very vast and wide acquaintance in Louisiana, I am very, very well known; certainly I registered as I was known, and am.

186 Q What name was that?
A Charlotte Shelby.
Q And when you got to New York, whatever hotel it was that you stayed at, did you register in your own name there?
A I registered in my legal name there.

187 Q What is your legal name?
A Mrs. Pearl Miles Reilly.
Q Well, then, your name of Charlotte Shelby is not your real legal name?
A No; it is a family name, but not my legal, married name.
Q Well, when you were in New Orleans - well, you have already answered the
A I did not only go to New Orleans. I went to Alexandria and to Eastrop, to Monroe, to New Orleans.
Q I didn't ask you that, madam. Do you remember an instance of meeting Mr. Henry with his daughter Barbara at any time in New York, when you were staying at the Pennsylvania Hotel?
A Yes, Mr. Henry came to my Hotel.
Q Were you staying at that time at the Pennsylvania?
A Yes.
Q And what was the date of that?
A I couldn't tell you. It was some time previous to my sailing for Europe in 1926; I should put the time in June.
Q Did you return to Los Angeles after that, before you sailed for Europe?
A After 1926, in June?
Q No. You say you met Mr. Henry some time prior to your sailing in 1926.
188 A Yes, I told you in June, 1926.
Q All right. Now, then, after you met him, did you return to Los Angeles before sailing for Europe?
A No, I sailed immediately.

219 Q BY MR. STERRY: Do you remember anything, madam, of or concerning the purchase either from yourself or from your daughter Margaret of the \$500 General Petroleum Corporation bonds?
X A No.
MR. STERRY: If this bill and check are correct - and the probabilities are that they are, because of the deposit - the transaction took place about December 7, 1921, which is a long, long time ago.
MR. LEWINSON: Yes.

Q BY MR. STERRY: And in buying and selling a lot of securities, you might forget about it; but I am asking you, does that refresh your recollection do you remember anything about that particular transaction?
A I remember once having General Petroleum. I don't recall anything more than that.

220 Q Do you recall whether or not you sold them?
A Yes, because they were not in my - they did not come into my late investment sheets.
Q Well, you have no specific recollection about that transaction there?
A No, I have not.
Q But so far as you know, you may or you may not have discussed that with Henry at the time?
A Never discussed those papers that you are holding, neither the check nor the - what do you call that paper, a bill? What is this?
MR. LEWINSON: Yes, that is a bill, I guess, isn't it?
THE WITNESS: It looks like the thing I call a statement.
MR. LEWINSON: Well, statement or bill or invoice.
MR. STERRY: Well, you are referring to Exhibit S-9-A. Well, my question wasn't that. My question was that he may have discussed the advisability of buying and selling those securities and may not; but did you authorize Henry to sell your securities as he thought best, without discussing it with you?
A No, absolutely not.
Q Well, now, I will try to limit it by years, because I can conceive that your answers for different periods might be different.

221 Q So let's take your first two years; so far as you know, did he ever buy any securities for you without first consulting you, receiving your authority for that?

A He did while I was in Europe.

MR. LEWINSON: That was not the first two years - excuse me.

MR. STERRY: Certainly.

Q Now, I asked you "The first two years." Now, you went to Europe the first time, as I remember, in 1927.

A In 1921, my two daughters and I went to Europe.

MR. LEWINSON: 1921, and then 1926.

MR. STERRY: I am mistaken, then. Well, let's take it in 1920:

Q What time did you go to Europe in 1921 - just the month?

A In the summer.

Q In the summer?

A Yes.

Q How long did you stay approximately?

A About three months.

Q Now, up until the time you went to Europe the first time, from the time you started to do business with Mr. Henry, so far as you know had he ever bought any securities without first discussing them with you and receiving your O. K.?

222 A No; I usually talked it over with both Mr. Henry and Mr. Babcock.

223 A He couldn't sell any securities without getting possession of them, and he would have to ask about it and get my consent before he could get the securities; and therefore, he would have to discuss it with me before he could sell any securities.

224 Q Now, during that time, so far as you now recollect, were there any securities purchased for you by Mr. Henry while you were in Europe, during this first trip now, in 1921?

A I don't remember.

Q Do you remember whether there were any sold for you during the time that you went to - or were in - Europe, the first time?

A I don't remember leaving any with Glyth & Company.

Q Now, then, from the time you came back in 1921 up until you left for your second trip to Europe, so far as you know did Mr. Henry ever purchase any securities for you without first consulting you?

A No, not until after I went to Europe a second time, in 1926.

225 Q BY MR. STERRY: I am asking you generally, during the time you were in Europe in 1926, or until the time of your return, did you know of

226 Mr. Henry's buying or selling - well, let's take buying first - buying securities without first consulting you?

A Yes, but he would write to me about it and would give me the privilege of withdrawing the sale.

Q But do you know of his selling any securities without first consulting you while you were in Europe, from 1926 on?

A Yes. I have got letters which -

Q That will be in the same category.

A Yes.

229 Q Now, the bill shows a purchase from your mother of \$5000 Bethlehem Steel and sold to her, \$5000 Oklahoma Gas & Electric; now, all you say is -

230 all you can remember is that you did at one time buy and sell those securities?

A I don't say those particular ones. I know that they were listed in my holdings at one time.

Q But do you know that at one time you bought Bethlehem Steel bonds, and you also bought Oklahoma bonds?

A Yes, I remember those two issues.

Q Well, do you know how the bill would come to be made to your mother?

A No.

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A I bought the property - it went through escrow through the Frank Meline Company.

Q I didn't ask you that. I asked you in whose name the property was taken.

A Why, certainly - Charlotte Shelby bought the property, and naturally Charlotte Shelby had the deed go into escrow, and the deed was made to Charlotte Shelby.

Q BY MR. STERRY: You placed a mortgage on that at one time, did you not?

A Yes, I bought it subject to a mortgage.

Q Didn't you mortgage it afterwards, after you bought it?

A Yes, some time afterward; a long while afterward.

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Q That, of course, at Mr. Lewinson's suggestion, is a matter of record; and it would save some considerable time if by our next session you would just have a memorandum of the --

A (Interrupting) With the Security Bank - as I speak of it, "Mr. Gibb's bank" or "Mr. Zimmerman's bank." It is the Security-

MR. LEWINSON: The Guaranty branch?

THE WITNESS: The Guaranty branch, I think it is.

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Q BY MR. STERRY: What was the date of that settlement?

A I met my daughter in Paris before the Christmas holidays, some little time before the Christmas holidays, and we got together some short time before Christmas.

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Q Well, that was the year 1926?

A Yes, in December of 1926; and she understood - partly - her mother; anyway we came together; and we went down to the Western Union office, as we had planned, and we sent a cable to each of our attorneys stating that we had met, and we had settled our affairs between ourselves; and she instructed her attorney to dismiss the suit, and I telegraphed - cabled - my attorney that God had intervened and brought mother and daughter together.

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A When the accountant came out the first time he asked us for our bank statements and cancelled checks. Of course we said "Yes, we have them," and my daughter went to the desk in the drawing room where she put away her bank statements and cancelled checks, after she had checked them over from time to time; she pigeon-holed them in that rather large desk with deep, recessed partitions. And when she went to get them, she found very few of them - not complete. I had gone upstairs, climbed up into my attic, to bring mine down; because after each month's bank statement would come in, we would check off our cancelled checks to see it was all right; well, as it often happens, the bank statements and the cancelled checks would probably lie around in my room, on my little desk in my bedroom, until the desk got a bit cluttered up, and then I would come along at some time and take them, the old bank statements and the checks with the exception that only one had been left there sometimes - and clear up the desk, and slip up into our attic and put all of the statements in an old travelling bag that I used for that purpose. Well, naturally, I thought they were there; I had had no occasion to look into them or go for them. And when I got up there, I found only a very few of mine left came down, and told the accountant they couldn't be found - that they were not there.

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Q BY MR. STERRY: All right; did you tell Mr. Chester that you had written a formal demand in 1932?

A No.

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Q To Mr. Henry?

A No.

Q Well, won't you please give me time to finish my question and save a lot of trouble, if you will - did you tell Mr. Chester that in June of 1932 you had written to Mr. Henry, from the St. Francis Hotel, making a formal demand?

MR. LEWINSON: Just a minute --

A No.

- 284 MR. LEWINSON: That question I object to, because it is in the nature of an impeaching question, unless the time and place of the conversation and the persons present are fixed.
- MR. STERRY: I think you are overlooking the fact that this witness is a party hereto.
- MR. LEWINSON: No, I am not; I realize that; you notice I said "in the nature of an impeaching question."
- Q BY MR. STERRY: You discussed your affairs with Mr. Chester, did you, so far as the accounting went?
- A Yes, he was engaged for that purpose, of making the accounting.
- Q And during any of your discussions with him, did you authorize him to tell Mr. Pagan of Blyth, Witter & Company that you had made a demand on Mr. Henry as early as June of 1932 for the return of your securities?
- A No.
- 285 Q Now, did you deliver to Mr. Chester all of the records which you had?
- A All that I could find.
- Q Let me see - you say that your daughter, Mrs. Fillmore, went to what place to find her records he asked for?
- MR. LEWINSON: Pardon me, just a second - may I interrupt - with reference to the witness' answer "All that she could find," I will say for the information of counsel that some things have been found since that time.
- MR. STERRY: Well, I don't think that changes the fact.
- MR. LEWINSON: Well, I don't say that it does, but I am just saying it for your information - not to change any fact.
- Q BY MR. STERRY: Mr. Chester came out to your house shortly after your conversation with Mr. Blyth at the Biltmore?
- A Yes.
- Q And he asked you for your records?
- A Yes.
- Q Now, you say Mrs. Fillmore went to what receptacle to get them?
- A A desk in the drawing room.
- Q And you went up into, I understood, your attic?
- A Yes, to the desk in my bedroom.
- 289 A I took what I could gather and placed them on the table for the accountant to see, in the drawing room.
- A I don't remember if it were that night or at some other time; we were constantly searching; I had no memory exactly of the spot some paper might have been in, in the closet or in the trunk, in a mass of things. We found that we did not find everything, that first night. The bulk of the bank statements and checks were missing, when I looked into the grab bag and the suit case. Some of them were there and some were not there; in other words, they were not complete.
- Q All right; now, you have said something about having a box in which the old, old records were kept, this box being in your closet?
- 291 Q Now, then, when you took those back to Mr. Chester, did you upon that day - that same day, if you remember - go to this box which you had in your closet where your old records might be found, or did you do that a day or so later?
- A It was at night, and very late at night --
- Q You mean when Chester came out?
- A --we worked late; he came out early in the evening, and we worked late that night. No, I made no attempt to search for my papers and statements that particular night. We went on with what he was doing, and before he came again, we had made another search.
- 292 Q Now, then, how long after that was it before you went to your box in the closet to look for these old records?
- 293 A Oh, we began searching the next day.
- Q Well, you began searching - I am asking you if you remember when you went to that specific box. I don't care about your other searches.
- A I was searching at that time only for bank statements and cancelled checks and I looked into the box that held the old statements and cancelled checks. I think it was before the next time that Chester came out to the house, and I can't remember what time it was. - 15 -

- 294 Q All right. Now, I assume when you went to your attic and looked in this suit case and grab bag, you took all the papers that were in there and took them down to Mr. Chester?
- A Yes.
- 295 A I had some miscellaneous little papers; they were not bank statements, they were not cancelled checks, but rather, little accumulated data there - rather mixed in its nature - and I think I found some things there that I gave to Mr. Chester; what they were, I don't remember.
- 306 Q Now, then, you had given Mr. Chester all of the papers which you thought had any bearing on this case before the deposition had been taken, hadn't you?
- MS. LEWINSON: May I interrupt a second? I wouldn't do it, except that I interrupted before and made some statement about some other papers having been found since. I might have given the impression that they were voluminous; as far as I know, fewer than half a dozen papers have been found since, which have any bearing on the case.
- 307 THE WITNESS: I had given Chester the bank statements and cancelled checks which I found; I had given to Chester the statements of Blyth & Company a vast amount of data - we will call it data - all mixed up generally, that I kept intact of the Blyth & Company account; the statements, the large envelopes - segregated papers - and records. Official records of Blyth & Company that we have referred to as the little black book; those papers were kept in a bank vault; they were not kept in the house, only at such times as Mr. Henry would come out to go over something with us, to arrange or reconstruct some receipts and data; but ordinarily those papers were kept in the vault in the bank; those I gave to Chester.
- 310 Q Well, as I understand it, you didn't have any suspicion when Chester first called on you - and you first couldn't find your papers - you did not suspect any theft of them at that time?
- 311 A I don't think so - at that meeting. There may have been subconsciously it may not have dawned on me.
- Q All right. Now, you can tell us, madam, between the date that Chester called and the time you saw these exhibits being introduced - can you tell us what time in that interval it was that you first were conscious of a suspicion of having had your papers stolen from you?
- A I was conscious that the bank statements and cancelled checks had been removed from their place, the place where they were kept, before Mr. Chester finished coming to the house for the accounting; consequently, he had to go to the bank to get photostatic copies of most of the statements.
- Q Well, now, won't you tell me when that was, whether it was a week after his first call or a day or two weeks or three weeks?
- 312 A I have answered that question several times. I said I don't know when suspicion was born or when it came to me, naturally.
- Q All right. Let me ask you this: you found in your possession the receipts which you had received - you and your daughter had respectively received from Miss Baber or Mr. Henry in the name of Blyth, Witter & Company, for the \$150,000 securities, did you not?
- A I told you all of those Blyth papers were kept in the bank vault.
- Q They were all in the bank vault?
- A Not in the residence. They were too valuable to keep in a residence; it might burn.
- 316 A All the documents that I considered being connected with the Blyth & Company case at all, had been given to the accountant and to my attorney

321 A No; I knew before Mr. Chester was through with the accounting that those bank statements and checks had been taken, because they were not with the others.
Q When did you get that knowledge?
A I couldn't tell you. It was some time during the accounting.
Q You have told me at least twice or three times - you may change it now if you desire - that when you first looked and did not find those bank statements or checks in their accustomed places, that you did not suspect a theft - you thought that they had simply been mislaid?
A The first night he came out, I thought "Well, is it possible that I" --
Q All right. Just a minute, please. If you want to correct that testimony do so. I am assuming it is correct, because you have repeated it several times.
A I came to no definite conclusion the first night the accountant came out

329 Q Well, those files you have not seen since you cleaned house in 1925, if I understood your testimony correctly?
A There were two files missing; I discovered that they were missing when the accountant came out; my discovery was caused by my looking for the old Blyth, Witter & Company file; it was not among those files remaining; also I discovered that our real estate file was missing.

330 Q Well, that does not answer it. As I understood you to say, the last time you had seen those files was when you had cleaned house in 1925; is that correct?
A Yes.
Q BY MR. STERRY: Mrs. Shelby, can you tell us now - you bought a piece of property in Laughlin Park I think I asked you about; you took that in your own name, did you not?
A I bought it with my own money, took title to it.
Q I didn't ask you about that. You took the title in your own name?
A Certainly.

331 Q You also bought this residence that you afterwards turned into an apartment house hotel, which is referred to as the Casa Margarita, did you not?
A Yes; that was a business venture.
Q And you took title to that in your own name?
A Yes.
Q You purchased that with your own funds?
A Yes.
Q The Laughlin Park place you sold, did you not, later?
A No, I did not sell it. My daughter sold it for me.
Q Well -

332 A I permitted it to be sold.
Q Well, I say, you sold it, didn't you?
A As owner, yes.
Q You signed the deed to it and took the profit from it, did you?
A No.
Q You did not?
A No.
Q You bought that, approximately, as I remember, for \$35,000, and sold it for how much?
A I paid \$36,000 for it.
Q What was the gross selling price?
A \$180,000.
Q And out of that you had to pay commissions, and so forth - did you pay your daughter Margaret commission?
A No.
Q You did not?
A No.
Q Did you pay any other real estate agent any commission?
A Yes.
Q Who?
A I have forgotten the name. I did not negotiate the property, nor was I present during the time; my daughter negotiated the entire deal for me.

- 333 Q Well, you did not pay her any commission, then?
 A No.
 Q Your daughter, Mrs. Fillmore, would then be able to tell us about the negotiations and who they were with?
 A Yes, she could tell you all about it?
 Q But you knew nothing about it except what she told you?
 A I didn't negotiate it at all. I did not appear in the deal at all.
- 349 A I bought the New Hampshire property in 1921; we moved into the New Hampshire house I think in May, or some time in the spring; soon after went into the house, we went to Europe. We returned from Europe in 1921 in August; very late in the autumn of 1921. Mrs. Fillmore had completed the first house she was building in a new subdivision of Fran Keline's. We temporarily moved into Mrs. Fillmore's little home as a wish of Mary's. I may add this - Mrs. Fillmore's house was built as a real estate venture; she had built the house, of course, to sell it; so the house being completed, Mary fell in love with the little house, and insisted that we go over and live in it until Margaret sold it; to please her and make her happy, we took some of the New Hampshire furnishings and remained in Margaret's home until Margaret did sell the home, which was in the spring of 1922; at that time we moved back into the New Hampshire house.
 Q Well, when did you start to turn it into an apartment house?
 A I bought it for that purpose, and the final arrangements were not made to turn it into an apartment house until the following year - 1922.
 Q When did you start on the work of turning it into an apartment house?
 A The actual work started, I think, about the middle of the year of 1922; well, we worked on it so long in advance, on plans and ideas, and we had so many consultations. As a matter of fact I did not finally engage Mr. Keline's architect, Mr. Clemens, who had drawn up plans and made out lines for the apartment upon the purchase of it; because it was purchased through Mr. Keline for the specific purpose of making it into an apartment house, at Mr. Keline's own suggestion and his own ideas.
- 350
- 351 A Well, the carpenters came on the job - if that is what you really want to know, when the actual first hand touched the building - about the middle of 1922; either late summer or very early autumn. It might have been September, it might have been October, but not later than October.
- 369 Q Miss Berger was your income tax expert from 1920 on until after you left for Europe in 1926, was she not?
 A No.
 Q Well, how long did she represent you?
 A Until after my connection and my daughter's connection with the studio had finished.
 Q That was in 1923?
 A Yes. I don't remember if she made out my 1922 tax; I have forgotten.
- 378 Q Well, let me get at it this way: when you went to Europe, you took certain securities with you, did you not?
 A Yes.
 Q And have you an idea approximately - I am not asking you exactly - but approximately - how many you took with you?
 A I don't remember now. Most of them, I will say. Well, I can state and make that clear by saying this: that I left in Mrs. Fillmore's care, or with her, I think it was around \$26,000; she did not spend the interest on the coupons, and that money which she saved was invested. From Germany, I ordered delivered to her \$28,000 and some odd dollars of Nestlé's bonds, and she continued to re-invest the interest here.

- 383 Q Now, after your return from Europe you never did receive back from Mr. Henry any of the securities which had been delivered to him either by your daughter Margaret, after you left, or which you sent to him before is that not correct?
 A I think that is correct, Mr. Sterry. I don't recall - well, he deliver some stock issues to me after I returned.
 Q All right; he delivered some stock to you?
 A I am awfully vague on it.
- 384 Q Now, when you returned from Europe in 1929, after your return from Europe the large bulk of the securities of that block which had found their way into his hands, he never did return to you, did he - the large bulk of them?
 A No.
 Q If he returned any to you at all, it was a few preferred stocks; am I correct that far?
 A Yes, but I don't know which bonds were sold to produce those.
- 388 Q When you returned from Europe you had with you all of the securities that were in your possession at the time you started home, is that not correct?
 A Yes, I reached home safely with them.
 Q Now, then, after you arrived home, did you deliver any of the securities that you had with you - did you thereafter deliver any of those securities to Mr. Henry?
 A Yes, from time to time - the greater portion of them.
- 391 Q Now, you kept all those receipts which you received from himself or Miss Beber in the bank vaults?
 A Yes - only except at such times as I expected him to come out - then I would take them out of the vault, and I was sometimes careless about taking them back, more or less; they might stay in the house a day or two.
 Q Do you know of any receipt that you have ever had from him or Beber that you have been unable to find now?
 A As far as I know, I have them all - as far as I know. But I thought I had all the bonds too, but I found out he stole BONDS from me in front of my eyes. At least, he confessed to it; and I didn't know it; I hadn't missed them; and I can understand now why it was that I hadn't missed them. It was in the re-arranging of the investment book.
- 392 Q Now, that, you said, was re-arranged in 1925.
 A Oh, no; it was being continuously brought up to date.
 Q Well, the time you claim he lost it was 1925.
 A He lost it in 1925; it was taken at that time to bring it up to date, with the large amount of exchanges that had been sold - made - and new investments made.
 Q And you have all of the receipts in your possession; they have now been delivered to your attorney?
 A Yes, as far as I know.
- 394 Q You didn't have any desire to place them so that neither your daughter Mary nor the government of the United States could trace them through Blyth & Company's books?
 A I certainly expected to find everything on Blyth & Company's books. I certainly expected Blyth & Company to hold the securities. In what manner they did hold them, I didn't know.
- 403 Q Well, you kept all of them in Germany then until 1927, and in 1927 you kept all your securities from then until you returned, in Paris? By "all of them" I do not ~~include~~ of course, include those that you return
 A Yes. The bank, I think, was the Societe de Generale.
- 409 Q Did you ever talk over with him in any way a settlement with your daughter Mary on the basis of cash or securities of the value of \$155,000?
 A No.

411 Q Then follows the quotation of a letter bearing ~~xxxx~~ date of February 10, 1927, addressed to Messrs. N. F. Hutton & Company, which I do not think it is necessary to read - that being specifically identified; it is addressed to E. F. Hutton & Company, attention Mr. Frank Darling, resident manager. I will show it to you though, to call your attention to it, and I want to ask you when you first saw or became cognizant of that letter - meaning the letter to Hutton & Company?

412 A I never saw the letter to Hutton & Company. To my best understanding the accountant acquired it.

Q All right; that is what I assume, but I wanted to know about it.

413 Q I understand from your testimony thus far, Madam, that the first year after you started doing business with Blyth & Company, when it came time for Miss Berger to prepare your income tax return, that you asked Mr. Henry to gather the necessary data with reference to the investments which you had made through Blyth & Company; is that correct?

A That is correct.

Q And that thereafter, it is your recollection that he furnished from year to year - he furnished the same data to Miss Berger without any specific request on your part to do so.

A Yes; to Miss Berger and to Mr. Mitchell, who made our tax report after Miss Berger - and later to Colonel Hutchins.

414 Q Well, now when did you employ Mr. Mitchell, if ever at all, as an accountant for you?

A Well, after the termination of my daughter's, Miss Minter's, contract with the Famous Players-Lasky Company; I no longer needed the expert advice of an income tax specialist, who specialized or made it a special business for the motion picture stars and others connected with the motion picture industry; I then asked Mr. Mott if he knew somebody who would make out the tax for me, and he suggested his accountant, Mr. Mitchell, and he made up the tax for - I don't know whether it was one year or two years. For one year, I know. I don't know whether he made it for two years or not.

Q Well, wasn't Mr. Mitchell employed by you as an accountant in connection with the accounting suit which Miss Minter had brought against you through the O'Melveny firm?

A No, I never employed any accountant in that suit. I don't know what Mr. Mott did, but as far as I am concerned, I never employed anyone; but Mr. Mitchell made out my income tax report.

Q Did you ever have any discussions with Mr. Mitchell about this accounting suit?

A No.

415 Q In 1920 and 1921, did you attend to having the income tax return made for your daughter, Miss Minter, as well as yourself?

A No; I did not make out their return at all; Miss Berger made out the tax report.

Q I understood that.

A I furnished all data, all cancelled checks and wardrobe - publicity - and general - expense account.

Q Yes, that is what I am getting at.

A Yes, I furnished the data.

Q Did your daughter, Miss Minter, have anything to do with the making out of this return herself?

A No, she didn't know anything about it.

Q As her manager --

A I furnished the data.

Q Well, you saw to the making of her return; by that I mean, not that you made it up personally, but you attended to it, the same as you did, and to the same extent only as you did, your personal tax?

Q In other words, you say as her manager you attended to seeing that a tax return was prepared for her, did you not?

416 A Yes, I saw that Miss Berger had all of the data prepared that she demanded.
Q Now, how about Miss Minter's tax return for the year 1922; that would be made normally in March of 1923, which as I understand was after she left your abode?
A Yes.
Q Did you attend to making her tax return for that year?
A No, I only supplied to Miss Berger the data that I had on hand; it would not be complete, because the year was not completed, nor was the contract completed, before Miss Minter left home.
Q Well, I do not mean to imply that you yourself prepared the return in any way. What I am trying to get at is, after Miss Minter left your house in 1922, did she attend to seeing that a return was prepared for her, or did you continue to give instructions to Miss Berger to prepare it, and furnish whatever data you had?
A Miss Minter herself went to Miss Berger's office and took with her whatever data she had. Meantime, I had taken all the available data that I had to Miss Berger.
Q How about the return for 1923, which would be made normally on March 15 1924?
A For Miss Minter?
417 Q Yes.
A I had nothing to do with it.
Q You had nothing to do with it at all?
A No.
Q How about the return for the year 1924, which would normally be made on the 15th of March, 1925?
A I don't know. I never had the tax made out, or I don't know if one was made.
Q Would that apply to the succeeding year?
A Yes.
Q Let's go back to the year 1920 - the 15th of that year - did you attend to the making out of the return for your mother, Mrs. Miles? I do not mean making the return yourself, but giving the directions to Miss Berger to have it made?
A No.
Q You did not?
A No.
Q And how about the tax returns of your other daughter, Mrs. Margaret Fillmore?
A I didn't have a thing to do with it.
Q She attended to having her own made out?
A I don't remember anything about it.
Q Was that same situation true during the succeeding years?
A Yes, to the best of my knowledge.
418 Q Now, then, when Miss Minter swore to her tax return, as I assume she did, for 1920, 1921, 1922, 1923, along there - did you go over them with her or explain them to her?
A Why, I didn't understand them myself. No.
Q Well, I assume that you verified your own tax return, for those years?
A Verified it?
Q Yes.
A I signed what I was told to sign - if that is what you mean.
MR. LEWINSON: I don't think Mrs. Shelby understands the term, the word, "verified," in the sense in which you use it, Mr. Sterry.
MR. STERRY: Well, I think both counsel can agree that that is verifying it, when you sign it.
MR. LEWINSON: Well, I don't know about that.
MR. STERRY: Well, let's don't get into a quibble over words.
MR. LEWINSON: All right.
Q BY MR. STERRY: You signed it; before you signed your own personal tax return for that year, did you go over it with Miss Berger?
A No.
Q How did you know it was correct then?

418 A I engaged her to make out the tax, as she was an expert, naturally.

419 Q Have you a copy of your tax returns for any of the years from 1920 on?

A I don't know; whatever data was left here was turned over to Colonel Hutchins, and I don't know what it was. I have never looked at it.

Q Well, we will ask you, if you can, to produce your copies of those tax returns for the years 1919 and on up until the year 1933, those copies if you have.

A I don't know that I have any.

Q Well, will you kindly ascertain?

A Why, I will look among the papers that Colonel Hutchins returned to Mrs. Fillmore while I was in Europe. I don't know what they contain. I don't know that it is there. I have never looked at them.

Q All right; will you kindly look at them, and if you can obtain copies of these tax returns for any of those years, either by finding them in your possession or getting them from Colonel Hutchins, I would like to have them.

A Yes, certainly. I will be glad to look and give you whatever I find.

Q I think I asked you about securities being purchased for you with your funds in name other than yours or those of members of your family in 1922 - without going over that period, did you ever know that later, especially in 1925 or in any year succeeding 1922, Mr. Henry was buying bonds or stocks with the moneys which you supplied him in the names of persons other than yours or members of your family? And I will use "members of your family" to include your mother or either of your two daughters.

420 A My mother died in 1925; and she had objected to having anything in her name, after the first year, when Mr. Henry told us he had done it that way; and as far as I know there were never any securities bought in mother's name. I never bought any in mother's name to begin with; but as far as I know it was stopped right then and there.

Q I take it from your former testimony that when Miss Berger came to make out your income tax returns in 1922, that you did ascertain from her that a number of the securities which you had ordered ~~by~~ Mr. Henry to purchase, or directed him to purchase with your moneys which you had supplied him, had been purchased in your name, and in the name of your mother, and in the name of your daughter Margaret - you ascertained that that was a fact, in your income tax returns?

421 A Not from Miss Berger. Mr. Henry delivered to Miss Berger the data which she compiled, or Blyth & Company's office - I don't know who compiled it however, it came from the Blyth & Company offices, this data. To my best recollection Mr. Henry, I think, took it to Miss Berger himself.

Q Well, all right. Did Mr. Henry show it to you or did Miss Berger tell you about it?

A No; Mr. Henry told me about it, I think.

Q Then you did ascertain that securities had been purchased with the money which you had supplied him, in the name of your daughter Margaret and in the name of your mother?

A Yes; and then when I found out about it, I told mother, and mother didn't like it; she said she might - although she was in wonderful health - that if anything happened to her, my daughter Mary might have to pay an inheritance tax on it. She objected to it; she didn't like it.

422 Q After 1922, did you learn from Mr. Henry or Miss Berger or from any other source that there had been securities purchased by Mr. Henry with the moneys which you had supplied him in names other than that of either yourself or either of your two daughters?

A No.

Q You never learned that?

A I didn't know anything about that until the accountant, Mr. Chester, told me.

Q I will ask you one general question, Mrs. Shelby, to save asking a lot of others: you never employed Chester or knew anything about him until after the confession letter?

422 A No, not until I met Mr. Meserve; and it was Mr. Meserve who employed Mr. Chester for me.

Q All right; then any information which you have stated or he has stated you received from Chester, was necessarily received after the confession letter?

423 A Yes.

Q All right; I think that was clear, but I wanted to be certain. Then it is a fact that you never had any knowledge or any idea that securities bought, either stocks or bonds, had been purchased either by Mr. Henry or by Slyth & Company on his instructions or otherwise, with moneys which you had supplied him, in what we may term fictitious names - that is, names of persons other than yourself and members of your family - until Mr. Chester told you?

A You are speaking of '20, '21, '22 and '23?

Q I am talking after '22.

A It had gone entirely out of my recollection; and even though - in some letters I have read where Henry made a statement that he purchased those in some name other than my own - even that went over my head; which was very apparent - I kept asking about it; if I had known anything about it, I had quite forgotten it - I didn't remember it - I had no recollection of it. I knew that I held - as I said, "temporarily" - some stocks, but I understood they were temporary, and I did not want them; I did not like stocks, and they had to be sold. I understood that they were in my box, and I never looked at those in the box; I mean, once I got them, received them, put them in the box, I never opened them up to read them any more. It had gone out of my memory, entirely.

424 Q Well, you say, madam, that you knew that you had some stocks. That does not mean anything. Those stocks are evidenced by certificates. Now, do you mean to say that you knew you had some certificates for stocks in fictitious names? By the use of "fictitious names," I will explain again I mean names other than of yourself or members of your family.

A I knew, when I came back, Mr. Henry gave me some stock certificates; and I objected to stock - did not want certificates - and I looked at them; I don't even remember seeing anybody else's name on them. It was not discussed, and the word "fictitious" I don't ever remember Henry using, all the years I knew him in.

Q Well, I am not suggesting he used that particular word.

A It was just, he brought it to my attention that - something about those stocks; I had quite forgotten it.

Q Well, madam, I am not suggesting that either you or Mr. Henry used "fictitious." I was using it merely as a designation. Will it confuse you in anyway, if I refer to stocks or bonds purchased in the name of persons other than yourself or your two daughters - will that be confusing if I use the word "fictitious"?

A I never heard that "fictitious" term until Chester told it to me; and it is like a red flag waving. So we will abandon the word.

Q All right, then; I will not wave the red flag.

A That word and "concealment" are my pet aversions.

Q We will abandon that word. Now, I will have to go back again; when Miss Berger came to prepare your income tax in the spring of 1921, you learned from - you think Henry, but either from Henry or Miss Berge that they had purchased a number of securities in the name of your daughter Margaret, your mother, and yourself; that is true, is it not?

A Yes, I remember that.

Q Now, did you learn at that time from either one of them that Mr. Henry had purchased bonds or stocks in the names of persons other than yourself or your two daughters?

A No, I didn't know anything about that.

Q Now, did you learn of any such purchases the following year - 1923?

A No.

426 MR. LEWINSON: May I state that the first letter among these exhibits referring to anything of that kind is a letter, I think, of Henry's, dated June 25, 1928.

Out MR. SCHWARTZ: I do not think we can accede to that, unless we examine the exhibits.

MR. STERRY: I have no objection to Mr. Lewinson stating that; and I am perfectly willing to state that, while he makes that, as any other statement, honestly, I am not prepared to say that he is accurate in it without myself checking it.

426 Q Or in the year following that - 1924?
 A No.
 Q Or in the year following that - 1925?
 A No.
 Q Or at any time during your stay in Europe from 1926 on?
 A I read the letters; and I read in the letter what he tells me in cold print that he has put those stocks in some name other than my own. When I read the letter I may have under some excitement - or rather, I was more interested in what the letter said about the condition of affairs here, and it went right over my head; it made no impression upon me, and, as it is brought out clearly, I kept on asking and talking about it; so evidently it didn't mean a thing to me; I did not understand the thing.

427 Q Well, when you returned in 1929 you say that he gave you some certificates of stock. You did not say "certificates;" you speak as all laymen do, and as I do when I am talking about stock; but the stock is not the part that is your certificate of stock. Now, he gave you some certificates; and I would rather guess from your answers, that they were in names of persons other than yourself or either of your two daughters; am I correct in that?
 A Well, Mr. Kampert came over with someone to the box where they are located and took a list of them; so he is probably in a better position to tell you about them than I am.
 Q But, madam, you have told us after you returned, you gave Henry a lot of stock, and he gave you back - you were trading there for some time; that is the way I interpret your testimony. Now, what I am trying to get at is, when you came back from Europe in 1928 and before his confession letter, did he ever give you any certificates of stock which were in the name of someone other than yourself or your two daughters?
 A I find that he did so, because I found them in the box - in other names than my own.
 Q You were not conscious of it at the time?
 A No, I had no recollection about it from memory. These stocks were temporary. I was told to hold them until such time as he could change them into bonds.

441 Q BY MR. STERRY: Mrs. Shelby, your counsel produced this morning some photostat copies of checks on which he stated the endorsements were forged; thirteen photostatic copies of checks, as he said first, and subsequently he mentioned only twelve, because one of the checks was obviously not a forgery; and I will ask you to look at the lower one, the check of August 16, 1930, number 48, drawn by yourself to the order of Blyth & Company, for \$5,040. and ask you if that is your signature?

A Yes, that is my signature. And I would like to state what this check is for, if I may.

Q Go ahead.

442 A After the settlement of my mother's estate in Louisiana, my attorney, Mr. Sholars, disposed of - for the estate - certain timber lands; the check as paid for the timber amounted to less than \$5,000. If of course was - the inheritance went directly to Mrs. Fillmore; there was not enough in that check to cover the investment that Mr. Henry suggested making with that money; since Mrs. Fillmore -

Q Wait a minute. You say "with that money." That does not mean anything. What money do you refer to?

A Well, the money for the timber.

Q Go ahead.

A At that time, Mrs. Fillmore and I had a joint savings account; it was in my name; it was our intermingled moneys - most of it was hers; and it was kept in that special account for her own benefit, her suggestion, to try to condense her housekeeping expense and our living expense - and all over and above that we tried to put into this large amount in order to conserve it and invest it through Leslie Henry with Blyth & Company; and since she did not have in her own bank account at that time, or it was not convenient for her to withdraw, sufficient money to meet the investment that Mr. Henry so strongly recommended for that specific amount of money, I took the check and added to it, with funds of that special account that we had, enough to bring it up to \$5,040. to pay for the specific investment that Mr. Henry urged her to take at that time. But this money is really not my money; it is Mrs. Fillmore's money; and it was originally from the estate of my mother - Mrs. Miles. It was a mistake, because at that time we hadn't thought of - at that time we hadn't gotten the check for the gas rights; it had not occurred to us at the time to make a separate and individual little investment - special - account, which we afterwards called the Betty Green account; this should have gone in the Betty Green account - by rights, be placed in the Betty Green account, because it is a part of the inheritance money;

443 Q I know, Mrs. Shelby. I am not trying to repeat what I have gone over; but that was limited, as I remember it, to your quarterly payment of \$249.50. How was the interest paid on the bonds? And by "the interest" I mean the interest that the bonds would be earning - what was due from the coupons - how was that paid; in the same manner?

451A A Yes; cashier's checks; and I have found also that my daughter had been receiving cashier's checks from Blyth & Company.

MR. LEWINSON: Which daughter?

THE WITNESS: Mary; she had been receiving cashier's checks after her arrival here.

Q BY MR. STERRY: Well, you mean for the \$700 a month that she was supposed to get?

A Yes; I learned that she had cashier's checks for that.

Q During the period from your return in 1929 up until the time that you received this confession letter had you received in addition to this \$249.50, the full amount of interest which the syndicated bonds or securities were supposed to bear?

A I received what I believed to be the correct amount of those in syndicate and those held by Blyth & Company, on the coupons - from the coupons - which I gave Mr. Henry to have cashed; according to my records it was correct, with the exception of the interest which I was told was temporarily suspended on the Key System and Sutter Basin bonds.

454 Q Now, then, as to your securities which you had in your hands, how did you
455 get the interest on those; that is what you tried to mix in - did you clip those coupons and give them to Mr. Henry?

A Yes.

Q You clipped them off and handed them to him personally?

A Not always. Sometimes he would be at the house on another matter; we would take advantage of his being there and give them to him then. Sometimes he would drop in to Blyth & Company's office; I would be coming downtown and I would just happen to leave them there, or my daughter would. And at some times they even were left with - I don't think Mr. Kampert was - I don't remember Mr. Kampert being there for some time before; I remember the light-haired man. I forget his name. Well, never mind; they were left at the window; sometimes with Miss Baber, and sometimes again to Mr. Henry personally in his office in Blyth & Company. And sometimes they were sent by registered mail to Blyth & Company's office, in care of Leslie Henry.

Q How did you get the money for these coupons?

A By check.

Q From Blyth & Company?

A A cashier's check, I think; I wouldn't guarantee that every one was a cashier's check. I think most of them were cashier's checks.

456 Q Now, on that interest - those coupons which you gave to Blyth & Company, you were paid by a Blyth & Company check, weren't you?

A Interest, and coupons? Which coupons?

Q The coupons which you clipped yourself and deposited with Blyth & Company, you got a Blyth & Company check for it, didn't you?

A I got a check that was all lumped in together. There was no segregated check for the specific coupons that I turned in to Blyth & Company's office; there was no specific check for the quarterly interest on the - that is, that \$249.50, supposed to be a little something payable quarterly for those bonds that were in the syndicate - nor was there any specific check for any one thing; it was grouped together. I hope I make myself clear.

Q How did those checks reach you - through the mail, or did Henry bring them to you?

A Well, most of them came through the mail; a few times - oh, I can't remember; maybe once or twice; it might be more than that - I think he handed them to me at the house. Well, it was very rarely. They came through the mail.

Q Did they come with any accompanying letter?

A Yes - and with a statement.

457 THE WITNESS: Well, I threw most of the letters away, Mr. Sterry. The check was the thing that counted, and I kept the statement; now, the statements were not always mailed in the same envelope or given to me at the same time that the check came; but oftentimes - always a little notation, of course; the check did not come -

458 THE WITNESS: May I explain it this way - it was the form in which I kept account of moneys due me from Blyth & Company, or money that had been - moneys that were due from the various securities; dividends - bond labels grouping together the things. Here is a very extended one (indicating another paper in the file) which Mr. Henry found had been mailed to me; and when he came out to the house - there was some discussion later about some investments - he asked me to get it for him, and he said either the multiplication was wrong, the figuring was wrong - or there was something he wished to correct about it at the time; and at length he explained it to me - and this is the one I refer to.

459

MR. STERRY: That is, referring to the one of what date?

MR. LEWINSON: August 23, 1932.

- 461 THE WITNESS: Well, anyway, sometimes the accountants - once a year Price, Waterhouse or someone send out these statements. I did not keep it. It was of no importance to me. I thought.
- 464 Q BY MR. STERRY: Do you remember on or about December 13, 1920, of giving Mr. Henry a check for \$10,000?
 A No.
 Q Do you remember his giving you a check either then or within a few days thereafter for \$9,500?
 A No.
 Q Do you remember discussing with him at all the fact that you would like to make him a present for his baby or either of his children?
 A No, I did not discuss it with him. I gave him some little gift for the child. I did not discuss it or talk about it. I gave it to him.
 Q What was it you gave to him, if you remember?
 A Money.
 Q How much?
 465 A I don't remember, but I think probably - I am only guessing now - \$100 or \$300. It wouldn't be under that, and it wouldn't be more than a thousand.
 Q It wouldn't be under \$100 or more than a thousand.
 A No.
 Q Do you remember as to which child it was?
 A It was the second girl; it was the one they call Jane.
 Q Jane?
 A Yes.
 Q Do you remember about what time that was?
 A No, I don't remember.
 Q Do you remember how you gave it to him - in currency or a check?
 A No, I don't. I am just guessing now, but I imagine I gave him a check. It is a long time ago.
- 472 A All right. I had deposited the coupons of the Kirkman Nurseries; at some time a few days later, after depositing all the coupons due for that month, I went to the window to cash a check; the young man at the window said "Mrs. Shelby, we had some coupons come back for nonpayment;" and he handed me these Kirkman Nursery coupons; so I said "What does that mean?" Well, he said there was no money - or there was a nonpayment.
- 473 A Well, he said, "please get them out right away and I will get them or call for them," or "you bring them in the office," or something; so I did. And that was all there was to it for a while; I mean, nobody told me they were in default; and at some future time I was paid for them.
 Q Who paid you?
 A Blyth & Company; Blyth, Witter & Company.
 Q You are quite sure about that?
 A Why, I never questioned it. I don't know of anyone outside of Blyth & Company who would pay me for them. But they were exchanged, or paid me.
 474 Q You know as a fact that Mr. Henry paid you personally for those, don't you?
 A No.
 Q You do not?
 A Well, how could a little bond salesman pay me \$5,000 for some bonds? I wouldn't expect it of him, and it was not discussed that way.
- 475 THE WITNESS: And when Mr. Blyth came to something Henry mentioned about defaults in the letter, Mr. Shurtleff said "Oh - defaults?" Mr. Blyth looked up and he said "Theft". Mr. Babcock said "Mrs. Shelby, you know the firm is not responsible for defaults," and he said something about I remembered those Kirkman Nurseries; well, I didn't know anything about the default, but if they were not good, they were exchanged, or I was paid anyway, I didn't lose anything, as far as I know. "Well," he said, "we can't be held responsible for defaults."

476 Q " that you went to Mr. Babcock's office and there in the presence of Mr. Henry told him that the firm of Blyth, Witter & Company would have to take those off of your hands; that that was the arrangement which you had had with Mr. Jess, and that if they did not take them off your hands, take those bonds up, it would be absolutely the last business you would do with them; I ask you if you did not make that statement, and if Mr. Babcock did not tell you that no bond house could be responsible for defaults, nor could they take them off your hands?

483 A Certainly I got no check from Leslie Henry.

Q Can you say now that you got a check from Blyth & Company for those bonds?

A No, naturally, I got a check -

Q How about the Portland Flour Mills -

MR. LEWINSON: That seems to be another subject. It is a good place to take an adjournment.

THE WITNESS: I never heard of any default of flour mills; -

495 A (Reading). "Re-invested October 23, 1927, in Pacific Investing stock." That refers to \$10,900 --

MR. LEWINSON: Pardon me, just a minute. You have just been asked to read it.

THE WITNESS: There is a little mark there that shows it referred to \$10,000 National Public Service bonds at 6 1/2; the next writing is "Re-invested" - no date - and a mark pointing to \$10,000 Mountain States Power Company 6's.

Q BY MR. STERRY: There is no memorandum there as to what it was re-invested in?

A No.

496 THE WITNESS: Yes - referring to - I think; I won't be positive, but I think \$5,000 American Toll Bridge 7's, and \$10,000 Yosemite Company 6 1/2% bonds. At the very bottom - that is some figuring - I will read you the figures; 19 - 10 - 4 --

MR. STERRY: You don't have to, unless they bring back something to your mind, so you know what they are about.

THE WITNESS: And the addition is 33.

Q Do you know what that refers to?

A No, and I am not sure that that is my figuring; I had not noticed the figures, when I said that this was my writing; this was my writing at the bottom. My writing is "Sold for income tax," referring to Leslie California Salts.

MR. LEWINSON: That is, there is a mark on it pointing thereto.

Q MR. STERRY: This first figure which you read, (I will have to come around) - this first figure referring to the \$10,000 National Public Service which was re-invested in - Pacific Indemnity, was it?

A Pacific Investing stock.

Q All right; in whose name was that stock taken, if you remember?

A I don't know; I don't know that I am absolutely correct in the notation there.

Q When did you put that notation on, if you remember?

497 A I had those in Paris; I put it at some time while in the vault after sending that - I am only guessing, Mr. Sterry, but I imagine that I did it after I sent the \$10,000 National Public Service bonds to Blyth & Company, care of Henry.

499 Q BY MR. STERRY: Now, Mrs. Shelby, did you ever, before leaving for Paris in 1928, discuss with Mr. Henry the Taylor murder case?

A Oh, yes.

Q And when did that occur?

500 A Oh I think --
MR. LEWINSON: I want a special objection noted to the materiality of that line of inquiry.
THE WITNESS: I came back from New York at one time, and a lot of publicity had burst forth --
Q BY MR. STERRY: I am not asking you about that.
A I arrived --
Q I just asked the date, if you remember.
A Now, I am telling you; I am trying to fix the date, if necessary - if you will bear with me; I can't give you the date.
Q All right.
A I arrived in Los Angeles soon after a lot of publicity and during the time of a lot of publicity about that affair; being quite indignant, I suppose I expressed myself not only to Mr. Henry but to anyone else I happened to come in contact with.
Q Did you ever discuss with Mr. Henry between the period of 1918 and the time you left for Europe in 1926, any of your income tax problems?
A No. Problems? I had no problems.
Q Well, then, if we eliminate the word "problems" and simply say your income tax for any of those various years, did you discuss that with him?
A I had no discussions and conversations with him; I asked him and my income tax specialist asked him to furnish whatever data they --
501
512 MR. STERRY: No, I understand that they came to you through Mr. Byron Hanna.
513 MR. LEWINSON: Well, they first came to me through Harold Judson - and then Byron Hanna.
517 MR. LEWINSON: (1) We have originals of the following exhibits: Exhibits 2-A and B, 55-A and B, 60, a portion of 71, 120 - and I add this; the original contains a postscript not found in the exhibit; and 124, 131, 137, 173, and 177.
(2) Mrs. Shelby received the following in addition to the originals that we have --
MR. STERRY: What you mean to say, if I may interrupt, is that she received the originals of the following.
518 MR. LEWINSON: She also received the following: of course, she received the originals which we have and she also received the following: 181-A, 190, 191-A, 191-B, and 191-C.
(3) Mrs. Shelby did not receive the following: 6, 6-A, 52, 46, 47-A and B, and 48-A.
(4) Mrs. Shelby had no recollection as to whether or not she received the following: 5, 3 and 4.
(5) Mrs. Shelby received letters of somewhat the same import as the following, although she is unable to say that the letters that were received contained everything contained in the following: Exhibits 61, 77, 84, 91, 94, 134 and 139. As to 91, the last sentence of page 3, first paragraph, she has no memory of.
Do you care to accept that tentatively, Mr. Sterry, as a point of departure?
519 Q BY MR. STERRY: What became of the rest of the original of that letter, Exhibit 71?
A I kept some of Mr. Henry's letters; I particularly kept all parts of his letters that pertained to bonds - new purchases, exchanges, et cetera; sometimes I would just tear off a portion, as I did with this, and throw the other away. It was of no importance to me. And evidently that is what I did in this case.
Q Well, how about the balance of that letter?
A I don't know what it contained.
520 Q Now - I read them all, but I can't carry it in my mind - that Exhibit 71 purports to be a carbon copy of an entire letter to you.
A Well, I can't carry all of these letters in my head. It purports to be the same. I don't know if all of the clauses are the same in the letter which I received; but I should think it was just the same.

- 520 A I should think it would be the same. I can't be any too certain about any letter containing all the clauses that the copies have in them.
- Q That portion of Exhibit 71 which is exhibited to me by your counsel as all that you have of that, starts with the clause, "I am enclosing the draft for \$1,000 for which you cabled, and have completed the exchange of your securities which you approved as a result of my last letter;" and the last sentence of the portion which you have reads: "Another matter which I think should have your attention, and that of Mary, would be a communication by each of you to your separate attorneys setting forth that you have agreed between you to a dismissal of the suit in Los Angeles."
- As I understand you, you don't remember the other portions of the exhibit - that is, the carbon copy of that letter?
- A Of this particular letter?
- Q Yes - but that you have no reason to --
- 521 A I have no reason to doubt that I did get the letter just as it is in the copy; it is very familiar to me.
- 525 Q Among the letters which have been handed to me is one of June 2, 1926, addressed to Mr. Henry, Mount Royal Hotel, Montreal, Canada, signed "Eva A. Baber," and below Miss Baber's name in writing is "6/21/26 - received from Mrs. Shelby \$650 above referred to (20 Westphalia coupons due June 1 at \$32.50 each) Blyth, Witter and Co. - L. B. Henry."
- I will ask you in whose handwriting the written words are that I have read - if you know?
- A Mr. Henry's - Leslie Henry's.
- Q I have not even examined that document, other than the portions that I have read to you; but how did that happen to be in your possession, if you remember?
- A Leslie Henry wrote a receipt for some coupons on it.
- Q Well, I can see that.
- A Yes. He gave it to me. He had the letter in his pocket - had this sheet of paper, and used it for a receipt, and of course handed me the entire thing.
- MR. LEWINSON: If I may make a suggestion, if you will call the witness' attention to the date and ask her where she was at that date?
- 526 Q BY MR. STERRY: Following the suggestion of your counsel, Mrs. Shelby, can you tell where, and under the circumstances under which, he used this letter for a receipt for you?
- A Yes; at my hotel - the Hotel Pennsylvania in New York City, June 2, 1926.
- MR. LEWINSON: Pardon me. It is dated June 21.
- THE WITNESS: Oh, I beg your pardon. I mean June 21.
- MR. STERRY: Well, the letter is June 2nd and the receipt is dated June 21.
- THE WITNESS: Yes; I was looking at the top - June 21, 1926 - in my bedroom at the Pennsylvania; I was ill, and I had Leslie Henry and his little girl shown up to my bedroom when they called upon me.
- Q While he was there, you delivered to him the coupons for which he gave you this receipt?
- A No - let me see. I would like to express myself here, if I do not take up too much time. I notice this receipt refers to 20 Westphalia coupons. I have been under the impression - not having noticed what the receipt was for - that that \$650 was money that Henry claimed was due Blyth, Witter & Company for some some interest on Bethlehem Steel bonds.
- Q Well - without violating the rules of examination and arguing with you - might it not be that if you owed that amount of money to them on exchange, that you gave him these coupons for it instead of a check?
- 527 A That is a very good suggestion, Mr. Sterry. It might have been. I just know when I left here, something - doesn't the letter refer to it? May I read this?

- 528 Q Now, referring to the other letter furnished me on which is any writing other than the signatures - it is a carbon of a letter addressed to your daughter, Miss Mary Miles Minter, dated December 16, 1931, signed "Yours truly, Blyth & Co., by" - and at the bottom is, in writing, "Dear Mrs. Shelby: Am forwarding this check direct today. Think that Mr. Henry will be able to be up and about by the last of this week and he will bring the statement out to you. E.A.B.;" and ask you if you know in whose handwriting the words are which I have read to you?
- A Eva Baber's writing.
- Q Do you recall the circumstances of how you happened to get a carbon copy of that letter?
- A Yes; it was at my request that I received a carbon copy of any notification or enclosure with the check sent from Blyth & Company to my daughter, Mary Miles Minter.
- 529 MR. LEWINSON: Yes. Except, of course - with two exceptions - 71, we just have a portion, which I have already referred to; and 120 has a postscript on the original which does not appear on the carbon. Otherwise, they are the same.
- MR. STERRY: Isn't that postscript the same as that I have already asked her about?
- MR. LEWINSON: Oh, yes, we have already referred to it. But I mean - answering your question - in the interest of accuracy, I have to make those two qualifications.
- MR. STERRY: Otherwise, with those two qualifications, the originals are the same and can be produced at the trial?
- MR. LEWINSON: That is correct.
- 533 Q Now, Mrs. Shelby, you have heard these various stipulations, and it is apparent that there are quite a number, or a number (you might not agree with the "quite") of letters, original letters, which you have from Mr. Henry in the possession of your counsel. May I ask you generally where you found those?
- A I found a few letters in the drawer of my wardrobe trunk, in the closet off of my bedroom in my daughter Mrs. Fillmore's home in Beverly Hills. I found some of those, I think, while the accountant came out - or portions of them - after the accountant came out; and one or two of them I think I found only a few months ago - recently; and they were stuck in some obscure places.
- 539 A I did not discover that the letters had really been stolen until the taking of the deposition; I did discover that I did not have Leslie Henry's letters - that is, I was only looking for letters pertaining to the accounting; letters that had to do with the buying and selling and exchanging of securities. I looked for those letters to give the accountant; I found only a few. I did not search for letters; letters were not important to my mind; I did not value them; I put no -
- 541 A The accountant came out to get all data pertaining to the security business; I was somewhat surprised and disappointed not to find in the trunk, where I kept all those letters ordinarily - any there; I didn't give it any concern, however - not finding them; I didn't know they were of any importance; I don't know at this time.
- 544 A Mr. Babcock said "well, now, Mrs. Shelby, don't worry a bout it any; Mr. Blyth is coming down; he will take care of everything, and don't you worry, because we have - Henry has a \$250,000 surety bond,".
- 545 A Mr. Babcock said - "Yes, that's right; there is a surety bond on Les; there is a surety bond for me;" he said "Mr. Blyth himself carries a surety bond;" he said "We all have to take out that - we all have to carry it."

- 550 A I said "Mr. Babcock, you mentioned Henry having a surety bond," and quickly, Mr. Shurtleff - or Mr. Blyth - said, and Mr. Shurtleff said, "You don't know whether we have a surety bond or not, Dave;" and Mr. Babcock seemed rather disturbed, a little nervous, and he wiggled out of having said it; and my daughter and I - we exchanged glances, being so surprised that Mr. Blyth wouldn't right up and admit "Yes, he has; he has a surety bond of \$250,000 and Mr. Babcock has a surety bond of \$250,000 and I have got it; we all have it." I was surprised.
- 551 A The confession letter was a terrible shock and you have given me a second shock when you said over the phone to me last night that Henry was a crook - that you knew he was a crook - that he had been a crook fourteen years." Mr. Blyth said "I didn't say that." My daughter and I looked at each other in consternation. We were quite stunned at that.
- 552 A During one of those pauses Mr. Shurtleff spoke to my daughter and said that he knew Mrs. Henry very well; that he liked Mrs. Henry; that his wife and Mrs. Henry had gone to school together; Mr. Babcock said, "Les's wife and" - I have forgotten Mr. Shurtleff's first name - "went to school together." Mr. Shurtleff said "college". Then they spoke of all being associated and feeling very friendly towards each other; that they had been friends for years - that is, the Blyth family, the Babcock family, the Shurtleff family and the Henry family; that they were so close together, having gone to school together, and their wives having gone to school together, that it made them very close; Mr. Shurtleff told me of how he came down and stayed in the Henry home - something referring to a child that was ill; I have forgotten what. And he expressed his sympathy - rather more in manner than in words - he had warned Mr. Babcock about having said there was a surety bond for Leslie Henry and all of them; and Mrs. Fillmore, sitting near Mr. Shurtleff, said "Are you an attorney, Mr. Shurtleff?" I don't know what he replied. And a little later I heard my daughter say to Mr. Shurtleff, "Mr. Shurtleff, I am a little afraid of you." Well, during the letter reading Mr. Blyth said "Emph - I don't know whether to let him kill himself or not. It might be the best thing for him to do to break his damned neck."
- 553
- 564 And Mr. Babcock said "Well, we will take care of that \$700 check." Then I said "Well, fine; I hope matters will be straightened out then" - and that she wouldn't have to receive any shock. Let me see -
- 577 A I can't remember when I started, by slow degrees - by seeing her daily either at her house or our house; I very carefully paved the way. I can't remember how long it took me, whether it was a day or two days or three; but I tried not to do it suddenly. I may add that her attorney, of course, knew about it.
- 590 Q Now, you say there that you said you wanted to take all your securities - those that were syndicated - and the money coming to you, and everything else; did Mr. Babcock say anything or ask you what you mean by syndicated securities?
- A No; he just stood there and listened.
- 592 A Just a minute. I came back in 1929 - first Christmas here - and the next Christmas would be 1930, wouldn't it? So it was early in the year 1931.
- 596 Q Madam, when you were in Europe during 1926 to 1929, how did you cash the coupons on the bonds that you had and kept with you?
- 597 A I mailed the coupons to Blyth, Witter & Company, care of Leslie B. Henry - to "Leslie B. Henry, Blyth, Witter & Company," or "Blyth & Company," Los Angeles, California or Pasadena - I have forgotten. I sent them back to the states, to the firm of Blyth & Company.
- Q You did not cash any of them in Europe?

- 597 A No. Sometimes I sent them to my daughter. In the beginning I sent them to my daughter to be cashed.
- Q Why didn't you cash them in Europe?
- A Oh, I didn't know how.
- Q In the conversation about the Kirkman Nurseries bonds, did you have any conversation about failure to receive interest on the Portland Flouring Mills bonds?
- 598 A No, I didn't know that I failed to receive interest on the Portland Flour Mills bonds.
- Q And those bonds were later converted into stock, or exchanged for stock of the Sperry Flour Company?
- A I don't recall that. I recall having some Portland Flour Mills; I recall having some Sperry Flour.
- Q At the time of the conversation about the Kirkman Nursery bonds or at any time shortly before or thereafter, did you tell Mr. Babcock that if Mr. Henry left the firm, that you would take your business wherever he went?
- A What?
- (Question read.)
- A Why, of course not. That an absurd question.
- 600 Q You never at any time from the time you started doing business with
601 Leslie B. Henry as the agent of Blyth & Company, until the time of his confession letter, ever regarded him either your business manager or business agent in any matter, did you?
- A Certainly not.
- 612 Q Now, going back to your first meeting with Mr. Gilmour, did you establish what year that was? It was the time that you say your daughter sold you out of house and home?
- 613 A Yes; sold the house at Fremont Place, and we had to spend the holidays in New York, waiting for the Ambassador Hotel to be opened; and I think it was 1920.
- Q All right. Did you at that time have any business discussions with Mr. Gilmour? I mean by business discussions, with reference to the handling of your securities by the New York offices of Blyth.
- A Well, I do not remember any detailed discussion of any specific security; Mr. Gilmour called to see me and my daughters socially, as I remember.
- 614 A Oh, I met him several times, Mr. Starry. I can't remember the detail of each time. There when I was in New York I would call him up or he would call to see me, or I would speak on the telephone; I would go down to the Blyth, Witter offices.
- Q At any of your trips to New York did you attempt to have him handle any of your securities - either sell or purchase some for you?
- A At one time I went to New York, and had ordered securities sent from the firm here to the firm in New York. I don't know whether - now, I can't tell you whether they were securities that were matured - bonds - or whether it was some permanent bonds to be delivered for the interim certificates which I held.
- 615 Q Well, at any time, at any of your visits, did you ask him to either buy or sell securities for you?
- A Yes, I think I had a cashier's check, or possibly a check given me by a real estate firm, or possibly a check of Barker Brothers, that had been forwarded to me while I was in Louisiana. And I think I told Lloyd Gilmour that I wanted to get securities with that - with this money; and I did intend to; but I left before consummating any deal.
- Q Well, did you, after that suit had been brought by Fary, have a conversation with Mr. Gilmour in New York in which he told you that the firm would not handle securities for you that might be involved in that suit, or words to that effect at all?
- A No. Gilmour never dared to say that to me.

- 617 Q BY MR. STERRY: Mrs. Shelby, did you in 1929 or at any other time at the New York office of Blyth & Company, tender to Mr. Gilmour any cashier's checks in payment -
- A Yes, I was contemplating making some investments, and I decided to come home, and I did not make the investments.
- Q I know, but did you have ^{some} cashier's checks with you?
- A Yes, I think I stated previously that I had; I think I had a cashier's check on some real estate deal, and I had a check from Barker Brothers - I think that was a straight check from Barker Brothers; and I may have had a third - I am not sure; and they were forwarded to me after I left here. I received them in Louisiana, and I took them on up to New York with me.
- Q Do you remember how much the cashier's check amounted to?
- A I don't think it was more than five or six thousand dollars, possibly around five or six thousand dollars. It might have been a little more.
- Q Did Mr. Gilmour object in any way to handling those checks or purchasing securities for them?
- 618 A Why, certainly not. Why should he? I was doing business with Blyth & Company. Why couldn't they do business with me in New York as well as the office out here?
- Q Well, did he tell you that he had heard that you had an accounting suit between your daughter and yourself, and that he did not want to handle any cashier's checks or moneys that might be involved, or words to that effect?
- A I answered the question, Mr. Sterry. I said no - he made no such remark to me - when I answered.
- 619 Q Now, this conversation you are relating with Mr. Cadwalader - was it more than one conversation, or several of them?
- A No, just one.
- Q And when did that occur?
- A In Blyth's offices, very soon after my return. Oh, I say "soon after;" it may have been a few months or a few weeks. It was on, I believe, either the first or the second visit that I made to the Blyth offices after my return.
- Q Who was present?
- A Mr. Henry, Mr. Cadwalader, Mrs. Fillmore and myself.
- Q Was it at Mr. Henry's office?
- A No, it was in the hall.
- 622 Q BY MR. STERRY: Well, whatever may have been your former answer, is it or is it not true that at that conversation with Mr. Cadwalader, you said anything about your securities being syndicated?
- A No, I did not discuss the detail of any of my securities. It was just my business in general.
- 623 Q You have testified that in this scene with Mr. Babcock which you have detailed quite fully, you told him you wanted to get back all of your securities, including those syndicated. Now, did you ever have any further discussion about your securities being syndicated in New York with either Mr. Babcock or Mr. Cadwalader or any other person whom you thought connected with Blyth & Company, other than Mr. Henry?
- A No; I don't recall taking up the matter with any of the members of the concern. Mr. Henry had been acting as agent -
- Q BY MR. STERRY: Mrs. Shelby, you have testified, if I recollect, that after your return in 1929, you had considerable dealings with Mr. Henry in purchasing and selling securities. Now, did he tell you that any of the additional securities which he gave you had been placed in syndicate?
- 624 A No additional securities to my knowledge - nor did he ever show to me that any of the new securities that I bought were placed in syndicate; he made delivery to me of the new securities purchased, and I held them until such time as he would call for them to exchange.

624: Q Well, in other words, there was this block of securities which had found its way into his hands, with such others as he may have purchased with those, or with the interest; and that block, he told you had been put in New York - or in the syndicate?

A And the securities that had been called and sent back from time to time.

Q Well, that is, those were the securities that had found their way into his hands while you were in Europe?

A Yes.

Q But what I am getting at is, after you returned, he did not claim to put any further securities -

A Oh, no.

Q - that he bought or exchanged?

A Oh, no.

Q He delivered all those to you?

A Oh, yes.

Q And you held those, or the securities for which they were exchanged?

A Yes; except, I think there were two or three issues out, when this confession letter came; it is a matter that I haven't yet had - not yet have I gone into, with the accountant.

625: A Henry was continually telling me - phoning me - that certain issues were called; for instance, we held a large amount of Wilshire Oil bonds

626: MR. LEWINSON: I think the statements showed something like \$50,000 in credit balance at that time. That is just in the rough, from my recollection, without having checked it.

MR. STERRY: Well, where did that cash come from - from deals which Henry had made after her return?

MR. LEWINSON: That is my understanding. That is, from securities which had been turned in for sale or for - or that had been called, and where the proceeds had not yet been reinvested.

MR. STERRY: Is it your claim that any of those securities were embezzled by Henry?

A Yes, I think they were - I think many of them were, probably; our claim is that we are entitled to recover those credit balances - among other things.

MR. STERRY: Well, what I am getting at, so as not to prolong the examination - there is no use examining the witness about statements - were those statements furnished by Henry?

MR. LEWINSON: They were among - yes - they were furnished either - usually by mail, as I understand the testimony; there is already testimony as to the monthly or other statements. Now, those statements showed credit

627: balances; now, we claim that we are entitled to recover those credit balances.

Q Well, I thought you said you asked him about their being called and he said no, they hadn't been, and if they were, other securities would be gotten and placed in the syndicate; so it would leave the -

628: A Yes, but I was not advised that any had been called.

Q Now, you testified the other day that you told your daughter Mary in Paris that you had only about \$50,000 in bonds; and gave your reasons why you told her that. Without going over that again, I would like to know from you about how many in bonds - par value of bonds - you had with you in Europe at that time.

628: A I wouldn't like to state definitely now from my recollection, but I think that could be easily be ascertained by the accountant?

Q Well, I don't want to argue with you, but I don't see how the accountant could tell what you had with you unless you had some record of it.

A Oh, I had the bonds in the vault, that I had with me.

Q Huh?

A The bonds that I had with me were in a bank vault, but I can't tell you; just the exact amount of them. Some were left here and some were sent here; I couldn't state definitely; I had the greater portion of the bonds belonging to my girls and myself with me.

- 631 Q I am not asking you how much you had invested as a total. But your testimony is to the effect that you were collecting all of the earnings of your daughter Mary, and that you endorsed her name on them with your name under it, or wrote your name under it.
- A Well, I don't think I ever wrote my name under it. I just wrote "Mary Miles Minter" - been doing that since she was a little kid, five years old - six years old - seven years old - always.
- MR. STERRY: You are mistaken on that, Mrs. Shelby, because we have photostatic copies which I will show you, if you wish.
- A Of her signature?
- Q No, of her name with your name written under it.
- A Oh, it may have been, at times; I don't remember. It wasn't important anyway, about the money.
- Q Now, listen, let me finish -
- OUT(MR. LEWINSON: Can't you let Mr. Sterry put his question?(OUT)
- 634 A First of all, I was not concerned about those belonging to myself; and furthermore, Henry had so mixed and jumbled the securities - and the loss of my little record book in 1925 had confused Mrs. Fillmore about the ones that she had invested in Elyth & Company; and after 1925 and 1926, when we were investing so heavily with what I should call "new money - newly earned money - newly made money" - the account was so jumbled and so mixed up, that I only carried amounts of money; moneys due; I couldn't carry the original investment for anyone; it had been lost track of.
- 635
- 636 Q In 1923, did you pay either Henry or Elyth & Company or Miss Baber for the services of an extra girl employed in their Pasadena office?
- 637 A No, I never paid Henry for services; he got a commission out of my security business, and that paid him for any services that connected him with my security business.
- Q Did you ever ask him to prepare any data showing the amount of moneys or the bonds which you had invested for your daughter Mary?
- A No; I don't recall asking him to prepare any data for anybody; he made out a report and handed it to the income tax specialist at the time of making up the income tax; he said he could do it better than -
- Q Did Mr. Henry ever tell you that either he or Miss Baber had been compelled to employ an extra girl for a short period of time in order to get ready data with reference to the amount of money or securities that you might be owing Mary?
- A No. I made no such request.
- Q And you had no knowledge at all that they ever employed any girl for that work?
- A No, I didn't - I had no knowledge of what they were doing, or I had given them no instructions to do anything. I paid no one for any services in the company of Elyth & Company.
- 638
- A Why, I was supposed to be given a monthly statement; if the statement did not come within a day or two, or with the check - the statement was usually mailed with the check - if perchance the statement did not come with the check, I would call Henry or call the office; and by the way, I believe the lady who was at the desk was Miss Hoagland; I first asked for Mr. Henry, and if he were out, she would say "I will ask Miss Baber; I will put you on the line". And then I would tell Baber I would want a monthly statement.
- 639 MR. STERRY: Mr. Lewinson; the witness' answer reminds me of an inaccuracy in my former statement: we do have one letter - I think it is only one, but it may be two - which were referred to by Mr. Henry in his statement at your office, written by Mrs. Shelby to Mrs. Fillmore, and which Mr. Henry said was left, he thought by mistake, because of their personal nature; they have nothing whatever to do with any of the matters involved in this lawsuit, and they are of a nature that I don't think

656 ought to be put in the evidence; and I will submit them to you, and at any time you want the originals of those, I will surrender them. I think you know what the letters are, too.

MR. LEWINSON: I think I have one of them in mind, at least. I don't know about the other.

657 MR. STERRY: I don't know that there were two. I said there was one or two.

MR. LEWINSON: I accept your statement, Mr. Sterry, and I concur in your suggestion.

658 MR. STERRY: You can have the original. I had completely left them out of my mind because they were not germane to the case - evidenciary, or in any other way - and Henry had told you about them and said that Mrs. Fillmore had left them with some papers, and he said he thought quite accidentally, because they were of a personal nature.

THE WITNESS: It is an absolute lie. He tried to blackmail me about that letter; and he said it came to the office and was opened by mistake, and that he read it, and it was so personal that he couldn't deliver it to Mrs. Fillmore; and he said that I better see him about that letter too. One more blackmail dot against him.

Q BY MR. STERRY: Well, Mrs. Shelby, now, let's be a little bit more specific. Of course he did not try to blackmail you at all until after his confession letter.

A The first I knew of attempts of blackmail -

Q Well -

A Well, you want me to tell you, don't you?

MR. LEWINSON: Well, I will stipulate he did not try to blackmail Mrs. Shelby until after the confession letter.

THE WITNESS: Why, certainly not. I didn't know he was a thief until after he confessed to it.

661 A The first veiled threat - which I did not designate as a threat at the
662 time; it made no impression upon me at the time it was told to me, because I never had any fear of any letter, anything I ever put on a piece of paper, any writing; but the first, as I go back now, Mr. Chester told me when he came to the house one evening to get date for the accountant that he - Mr. Chester - had been called into Mr. Pagen's office, and that he noticed on Mr. Pagen's desk a number of envelopes in my handwriting, which I had evidently sent to Henry from Europe - from Paris, he said; that's all; that was nothing; it meant nothing to me at all; and later on in the evening Gordon Chester said, "Mr. Pagen says he cannot understand Henry's attitude towards Mrs. Shelby." "Well," I said, "what is the attitude? He has nothing to hate me for or dislike me; I have always been so kind and so considerate of Henry - so kind to him - surely he can't hate me because he stole from me." Mr. Chester said "Mr. Pagen says he can't understand his attitude; it is vindictive or something - he does not understand his attitude towards you." Well, that passed; I had nothing that I knew of that anyone was trying to intimidate me for or blackmail me for; and then later, on another occasion when Gordon Chester came to the house in the evening to go over more date that he was gathering to take down to Blyth & Company's office, Mr. Chester said "Henry said to me 'I could blackmail Mrs. Shelby if I wanted to.'" "Well," I said, "he has nothing to blackmail me for;" and I had no fear - forgot it, and then I thought no more about it, and I didn't take that as blackmail; I didn't take it even as intimidation, because I knew there was nothing to even frighten me, and I was not worried or frightened; there was nothing for me to be concerned about; and after Henry got out of jail he called me - I don't know when it was; I don't know what time he got out of jail, in fact - but I was called in a very short time, in the dead hours of the night - it must have been twelve or one o'clock - and I was told, he said "Mrs. Shelby, this is Mr. Henry." He said "I have some letters, and you had better see me;" at that time, I put up the receiver. He called me the next night or the night thereafter - I cannot be certain about the times;

- 663 my maid was occupying the guest room next to me, and when this phone would ring she would come in frantic with fear, for having this criminal who was out of jail call the house; and she probably would remember. Well, he called the next night and said I had to see him - if I knew what was good for me, I would see him; that he had some letters. Well, letters did not concern me, and I put the receiver up.
- 664 A I am accurate in my knowledge of what he did and what his criminal lawyer did; his criminal lawyer kept telephoning me - we had to have Deputy District Attorney Burgess stop it; terrorized my house, terrorized my maid, and he threatened me; he said if I knew what was good for me -
- Q You say he threatened you. You mean Mr. Henry or Mr. Judson?
- A Harold Judson, - yes.
- MR. LEWINSON: Well, pardon me just a minute. I think the witness already testified that Henry threatened her.
- MR. STERRY: Yes, I know -
- THE WITNESS: Henry had threatened me, yes.
- MR. LEWINSON: Now, she testifies also that Judson threatened her.
- 665 THE WITNESS: Yes. Then my daughter Mary was visited in her home by a party with the letters, all of my letters -
- Q BY MR. STERRY: Well, who was the party?
- A I may say a party unknown to me, because I did not see the party; I would prefer to say a party unknown to me at the time; so the letters were shown to her, and she was told that she should indict me for robbing and swindling her, and that she should have the Federal Government indict me for fraud; and as a matter of fact she was strongly urged to see that I went to jail immediately - exactly. I not only have it from my daughter Mary; I have that from her maid, who was the housekeeping woman at the time, a woman of very strong character and very well known - one Dorothy Herbertson; very well known in Los Angeles, and has been for years.
- Q Madam, all you have testified is strictly improper, because it is all hearsay.
- A Improper? It is quite the truth, if you want to investigate it. So much the truth, Mr. Sterry, that it even almost took my daughter Mary's life; at a late hour in the evening I called her on the telephone and she told me she was going to blow her brains out.
- MR. LEWINSON: Mrs. Shelby, please confine your answer to the question.
- 666 THE WITNESS: Yes, I am going to tell it. Why should I hold back anything to shield Blyth & Company or that villain, Henry, or anybody connected with them? Why shouldn't you know it? Yes, I held the receiver when she was going to blow her brains out, and while I heard it, my maid ran in from the guest room and she listened, and I held the receiver so we both could hear, and I was terrified.
- Q BY MR. STERRY: Mrs. Shelby, you cannot testify to matters which are outside of your own knowledge.
- A That is not outside of my own knowledge. I got it from Mary's maid next morning, that when I was talking to Mary on that telephone, that Dorothy Herbertson walked into the kitchen, picked up the receiver, and having heard a few of these words, ran to Mary's room and took the gun away from her. Now, there are not only Mary and myself, but there are two witnesses to testify to the truth of it.
- 667 A They called again, and he said he had a letter that he had not turned over to Blyth & Company, and he wouldn't turn it over to Blyth & Company, but he would mail the letter to my house if I agree to see him. I said "No. You cannot come here. I will not see you," and I put up the telephone. Then the next time I heard about the veiled threats and the blackmail, or what you will, was when Harold Judson brought Henry's letters to Mr. Lewinson here in this office - Mr. Lewinson didn't tell me about this until some time afterward; then he told me that there was a proposition made from Judson to Mr. Lewinson - a proposition that Mr. Lewinson certainly would not entertain for one moment; the proposition was made, and some time afterward - I don't know when the proposition was made; I don't know the date - but some time elapsed, and then Mr. Lewinson told me that Judson came with a proposition - that is, if I

668 would leave the country, get out of the country, get out of the jurisdiction, go away and not testify against Henry, that Henry would see that I got my money from Blyth & Company. I don't know if I have told it all or partially, but Mr. Lewinson, I am sure, can enlighten you upon it.

Q Well, now, in the first place what Mr. Lewinson told you is hearsay; and in the second place it is privileged; but as long as you indulged part of the conversation between yourself and counsel, I will ask you: Are you willing to waive the privilege what exists between yourself and Mr. Mott?

670 Q BY MR. STERRY: Well, Mrs. Shelby, I will try to explain: Mrs. Shelby, when a person employs counsel, any conversation between that person and her counsel - not conversations with other persons present, but any conversations between the client, between yourself, and Mr. Mott, no one else being present, is privileged; that is to say, he cannot testify to that without your consent.

A Who can't testify?

Q Mr. Mott can't. I am asking you if you have any objection to his testifying as to conversations between yourself and himself, on negotiations about this matter?

MR. LEWINSON: Just a minute. I advise the witness she may properly decline to answer the question. The way to waive a privilege is not in general but it is specific; in a lawsuit, either on the trial of a lawsuit or the taking of a deposition, counsel is not entitled to ask a witness whether she will waive a privilege generally; the proper method of interrogation or presentation of the point is to call the witness - in this case, Mr. Mott - and ask him certain questions; then to wait and see whether privilege is claimed. And I advise you, Mrs. Shelby, that you may properly decline to answer the question at present propounded by Mr. Sterry.

671 THE WITNESS: Well, of course I take Mr. Lewinson's advice - naturally.

MR. LEWINSON: Well, now, if you have taken it, that ends it.

MR. STERRY: All right. That is one other matter we shall have to go to court on.

MR. LEWINSON: Oh, I don't think so.

MR. STERRY: I don't suppose you care to have us suspend here at this time? We may go on? There is one other matter you advised her not to answer.

MR. LEWINSON: Oh, no. You don't need to suspend right her and go to court. You can proceed, and then you can go to court or not go to court; as you may be later advised.

673 MR. STERRY: I think I asked you gentlemen when we closed, if you had a copy of the Hassell report or a copy of the Mitchell report?

674 MR. LEWINSON: Yes; so far, we can't locate such data. And at the time I expressed doubt as to whether we had either; I think we have not; I personally have never seen either of them.

MR. STERRY: Do you know of any way of getting them so we can obtain a copy of those? I would like to do it at our expense, if you have any means of obtaining a copy. I have never seen them.

THE WITNESS: Are you asking me?

MR. LEWINSON: No.

THE WITNESS: I have never seen the Hassell report in my life.

MR. STERRY: Well, I was asking your counsel; but then it is referred to in correspondence, and the Mitchell report is referred to, but I have never seen either of them.

MR. LEWINSON: Yes. We will see if we can locate them. If we can, we will be glad to assist you.

THE WITNESS: I suppose you will want to use them against me too; that is a further blackmailing.

676 A A segregation of the bonds belonging to Mrs. Fillmore - they would certainly have been separate and apart from any bonds belonging to myself and/or Mary.

Q Well, how about the segregation between the bonds belonging to you and those belonging to Mary?

A Oh, I was not concerned about "segregation."

Q What?

A I was not concerned about what belonged to me and what belonged to Mary.

Q I know, but Mary was at that time, through counsel.

A I did not go into any accounting; I didn't make any accounting.

Q Well, I am quite well advised of that; but when you say now and when you said the other day, as I have read to you, that Mr. Henry went to Mott's office to make a segregation, what did you mean?

677 A I didn't even say that he went there to make the segregation; I said he might have gone to make the segregation; I don't know what Mr. Mott wanted; he went there to make himself available to answer anything that Mr. Mott wanted to ask him.

A Well, I had that in mind, naturally - her real estate profits went into Blyth & Company; I had that in my mind. I did not designate specifically in my mind as to what Mary and I had together or separately or individually - or however it was.

Q You did not use the word "segregation," then, with reference to the bonds of yourself and Mary?

A No.

Q All right.

678 A If I did - I didn't realize I used the word "segregation" - if I did, I had in mind that which was in Mrs. Fillmore's account - here.

Q Well, if I remember your testimony, it has been to the effect that you were the one who gave him the orders for the purchase of all securities.

A I was not.

Q You were not?

A No.

Q Who else gave him any orders?

A Mrs. Fillmore gave him orders.

679 A I don't know whether I made the orders; we made the orders together; I don't know what you mean by "making orders." I told Henry she had so much money to buy bonds with; he knew the amount; he would submit lists of securities, would tell of the advantages of many of them, and suggest we have this or suggest we have that, and it was decided upon; he brought the securities; they were paid for. That is all there is to it.

Q How were they paid for?

A With money.

Q Well, they weren't paid with money; they were paid by checks, weren't they?

A Yes, checks are money.

Q All right, who drew the checks for them?

680 A Who drew the checks?

Q Yes.

A I drew the checks for one bunch of securities - a vast amount of securities - because they were paid for through my having the money in the bank and my drawing on that money to buy bonds with, for Miss Shelby, Miss Margaret Shelby.

Q Well, were there any instances in which Miss Shelby drew her own check?

A Yes, I think so. I couldn't tell you - now, in what year? You are encompassing a long period of time. When do you mean - what year - what moneys?

Q Well, let us say from 1920 up until the time the accounting suit was brought.

A Mrs. Fillmore gave no checks and had no account with Blyth & Company until 1923.

- 680 Q Well, then, what time in 1923 did she open an account?
 A On or about the month of May or June, 1923.
 Q Prior to that time had you requested Henry to buy any bonds for Miss Shelby, Miss Margaret Shelby?
 A No; she had not made profits at that time that she was willing to put in bonds; she kept investing and reinvesting in the real estate business.
- 681 Q You testified that you had decided to put your thirty percent of Mary's earnings into real estate and Mary's money into bonds; do you remember your testimony?
 A Yes, I did that from time to time.
 Q Did you discuss that subject with Mary?
 A No, I don't know that I did at all. That is amusing, most amusing; I mean, why should you inquire? Why should anyone be interested in our affairs? I am sure she had no idea of even questioning what I did with my thirty percent, or even her own; she knew that I invested her money with Blyth, Witter & Company in bonds, and depended on me, and I depended upon that firm to give her good service.
 Q Well, Mary, you said, had no business ability or knowledge or experience.
 A Not a bit in the world - not a particle - and never will have.
 Q So you did not discuss with her at all that fact, that you would put your money in real estate and hers in bonds?
- 682 A Why, no. I was not called upon to do so.
 Q In 1921, do you remember Henry negotiating any loan for you or not?
 A Certainly, Henry did not negotiate any loan for me. Why should I go to a little bond salesman, or even to the great house of Blyth & Company, to negotiate a loan? If I got one, I did it through my good friend, John Burke, over at the Security-First National, or someone over here in the Guaranty Branch; and I had an account in the Ambassador Hotel, and in the Pacific Southwest Bank here, and at two other banks in my neighborhood, where I had checking accounts. How perfectly absurd and ridiculous - you ask any banker in this town.
 Q Did you make any loans - did you negotiate any loans - in 1921.
 A I negotiated loans all the time with my bank - various banks.
 MR. STERRY: Have you got a copy of the Pyle report?
 MR. LEWINSON: No, we have not. That is a Government matter.
 MR. STERRY: Well, I didn't know whether they had furnished you with a copy of it or not.
 MR. LEWINSON: No.
- 683 Q BY MR. STERRY: You testified heretofore that the first time you were required to make out - have an income tax return made for yourself or your daughter Margaret after you had opened an account with Blyth & Company - that you asked Henry to supply the data to Miss Berger?
 Q Did you say to him at that time or at any time prior to your leaving for Europe in 1926, "You know, I know nothing about investment securities; everything is in your charge. It will be necessary for you to support the income tax figures so far as investments are concerned?"
- 684 A Are you asking me if I said that to Leslie Henry?
 Q In substance or in part.
 A I did not, in substance or in any other way. It was never said; another of his malicious lies. Are you taking the word of a thief for anything?
- MR. LEWINSON: Mr. Sterry has a right to refer to any conversations that Henry claims he had with you.
 THE WITNESS: Oh, I understand that.
 MR. LEWINSON: You were asked whether you made the statement. Now, all you have to do is to say yes or no.
 THE WITNESS: Yes or no, or "I don't know," but of course they know all the time that there is not a word of truth in it. They know better than that.
 MR. LEWINSON: That is not the question.
 MR. SCHWARTZ: You would be surprised as to what we know.
 MR. LEWINSON: Well, I don't know anything about that - as to whether we would or not.

- 681 Q Well, all right. Did you have any discussion with him in 1922 about certificates of stock having been delivered to you in names of persons other than yourself or members of your family?
- A No. I did not buy securities in anybody's "name;" I bought them and paid for them; they were delivered to me. No names were discussed.
- Q Did you have any discussion on that subject with him in any of the succeeding years?
- A No.
- 693 Q BY MR. STERRY: Mrs. Shelby, I show you an exhibit or a photostat of
694 four checks issued in 1920, which I will have the notary mark as defendant's exhibit S-30 - to your daughter, Mary Miles Winter; and then I will show you a photostatic copy of the reverse sides of those same checks (and we ask that that photostat be marked as defendant's exhibit S-31).
- (Defendant's Exhibits S-30 and S-31 marked.)
- Q And I will ask you to look at those.
- A I see them; what about it?
- Q Now, I have taken only four checks as typical - is that the manner in which you endorsed the name of your daughter to all of her pay checks or substantially all?
- MR. LEWISON: I object to the question as being too general and not the best evidence; and I will say, Mr. Sterry, that if you have a large number of checks - not at this time unless you wish - but at some convenient time we will be glad to examine them and enter into a stipulation with you on the subject. I should think that would be more satisfactory than attempting to get evidence which is not the best evidence, based on a recollection as to matters which occurred so long ago.
- Q BY MR. STERRY: Now, on this Exhibit S-31 - the name "Mary Miles Winter" is written on all four of the checks; on two of them, below there, is your name, Charlotte Shelby." Now, is the name of Mary Miles Winter on all four checks in your handwriting?
- 695 A Is it?
- Q Well, I am asking you.
- A Well, I don't know - I don't remember; it probably is, it probably isn't; I don't know. I signed it so many millions of times - I don't know; I couldn't remember; it probably is. I don't know why she should sign one of her checks; I don't know that she did.
- 710 Q Do you remember the substance of any of his letters which have not been produced?
- A Yes, I remember one.
- Q Either the original or carbon?
- A I remember one particularly - which I destroyed as per his request; and
711 that was one which was very disturbing to me and to my daughter Mary -
- 714 Q Mr. Schwartz calls my attention to a letter which was introduced as Exhibit 139 of the Henry deposition, dated October 2, 1928; you can see the whole letter - I am reading from my copy of it - and I will ask you if this is the one - if this refreshes your mind; look at it and see if this was the letter which you have in mind.
- A That is the date of the letter?
- Q The date is October 2, 1928.
- A No, it wouldn't be at that date, because Mary was with me at the time I got the letter that upset me so - we were together - so it wouldn't be at that date.
- 715 Q In the early part of your deposition, in being asked about the name of
716 your bank account, you testified that in 1920 and 1921, and I think 1922 - but I won't be sure about that - you had a bank account in the First National, and the Security at the Ambassador, and the German-American. Do you remember whether those were in your name or in the joint names of yourself and daughter?

- 716 A I don't remember.
Q You gave Mr. Chester all the documents that he asked you for that you could find?
A Yes, I gave all that was left in the house.
- 717 Q Well, who took the profit, if you did not - who received the profit on that sale?
A I gave the profit to my daughter - Miss Margaret Shelby at the time; and I would like to have Elyth account to me for what they have done with the money that came from it.
Q Well, you say that was sold in - what year, do you remember?
A 1923.
Q 1923?
A Yes.
- 718 Q You said you have no copy of the income tax return for that year; do you remember whether it was reported by you or by Margaret?
MR. LEWINSON: Just a minute. I object to it on the ground it is immaterial.
THE WITNESS: I don't remember.
MR. LEWINSON: Because the return would be the same; it would be 12%, regardless of the income.
THE WITNESS: It was a gift.
MR. LEWINSON: No, I don't mean that.
Q BY MR. STERRY: Well, did you report it?
A I don't know.
Q How did you make this gift to her?
A \$133,000 was put into Elyth, Witter & Company as purchase price for securities. I mean, the securities were ordered, delivered and paid for.
- 719 Q Well, they were paid for by checks drawn on your account?
A Yes.
Q Now, when the securities were received, did you deliver them to Margaret?
A We were together; she had no idea that her mother was going to swindle or rob, or cheat her, she never thought of such things.
- 721 A No, I did not deliver the securities to my daughter Margaret. The agent of Elyth & Company put them on the table, and my daughter Margaret was present.
Q All right; now, you did not keep them?
A Whether I picked them up or whether she picked them, I don't remember.
Q Well, you told him you were giving them to her?
A It was all prearranged and understood, and had been for a year, that whatever profit was made on that property would be hers - whether it would be ten cents or ten thousand or a hundred thousand or whatever it might have been.
- 723 Q All right; did you tell Mr. Henry to buy that amount of bonds for Miss Margaret Shelby?
A We both told him.
Q You both told him?
A Yes.
Q And did the bills that came out with your bonds - invoices - show that they were purchased in Miss Shelby's name?
A I don't know. I never bought any bonds in anybody's name. It was Miss Shelby's money. The securities were ordered, and when the securities were delivered they were paid for. There was no "names" to it. The account in my record book was separated - that is, on certain pages - which gave the accurate account of her purchases, the dates, the moneys paid and the maturity of the securities.
Q Well, that book is one of the books that has either been lost or stolen, was it not?
A It was decidedly kept - stolen - destroyed, by Leslie Henry for the expert purpose of robbing and deceiving me, which I now know.
- 724 Q BY MR. STERRY: Now, you testified that after your return in 1929, nearly all the payments you received for dividends or interest or otherwise, were by cashiers' checks; before you went to Europe in 1926, with only two exceptions, all the payments you received were on the checks of

724 : A Yes - altogether.

725 Now, I am showing you some carbon copies of auditing letters purporting to be sent to yourself and your daughter Margaret Shelby. First I will ask to have them marked as Exhibits S-34, S-34-A, S-34-B, and S-34-C.

726 / (Whereupon Defendant's Exhibits S-34, S-34-A, S-34-B, and S-34-C were marked.)

Q BY MR. STERRY: (Continuing) - and I ask you if these are samples of the letters referred to in your answer in the testimony I have just read.

MR. LEWINSON: Mr. Sterry, as far as I know, we have not hitherto seen these or do not have copies. Would you object to supplying us with copies?

MR. STERRY: Not in the slightest.

MR. LEWINSON: May I ask whether you have any more of these?

MR. STERRY: Not so far as we are able to find. They are old files, and I think that testimony would be that those are sent out, and have been, semi-annually. (Is that right, Mr. Pagen?)

MR. PAGEN: Different periods.

MR. STERRY: It is only fair to call your attention to the fact that those are internal auditing letters, sent out by the internal auditor, and not Price, Waterhouse; but I think the matter would be about the same.

A Yes, I had things like this, oh, from time to time; sometimes when I would see Mr. Henry I would ask him what it meant, and he said, "Oh, the auditor just happened to send out the statement;" I don't know how he explained it.

727 Q Mrs. Shelby, you have heard the colloquy of counsel off the record - and statement by Mr. Pagen that these four exhibits I have shown you, S-34, to S-34-C, were sent by their internal auditor; since then, they had one by Price, Waterhouse, who sent out similar notices - and you did from time to time get something similar to this from Price, Waterhouse?

A Yes, I did.

Q And you notice that each of these is in the form of a question asking you to verify certain holdings; you never made any reply to any of the documents you got either from us or Price, Waterhouse, so far as you now remember?

A I gave them to Lealia Henry and asked him to take care of it.

Q Well, I say, you did not fill it in yourself at all, and mail it back?

A No, he took it - Lealia Henry took it.

728 MR. LEWINSON: I don't think she has. We concluded that Mrs. Shelby was not qualified to go through data and throw any light on a problem which is essentially an accounting problem. I will say, however, for the information of counsel, that we have statements that were sent to Mary Miles Winter enclosing checks for \$700 each month, during the period; and that of course reflected the so-called syndicated securities, or securities that were represented by Henry to be in syndicate.

729 MR. LEWINSON: There is nothing that is earmarked or designated as "syndicated securities." I am speaking now without conferring with Mr. Armstrong, who has this feature of it better in mind than I do at present, because he is giving his immediate attention to it; and it is some time since I have given my attention to that particular feature of it; but I have the impression that all these statements to Mrs. Shelby as well as - I refer to the statements during this period - reflected securities claimed by Henry at the time to have been in syndicate. There is nothing earmarked, though.

MR. STERRY: All right, now; you say you have these statements and letters and receipts to Mary Miles Winter? I think that is probably germane. I am not certain about it, but I think I should like to see them.

730 Q BY MR. STERRY: Mrs. Shelby, I will have only a few more questions to ask you. You have testified heretofore that you in 1920, 1921 and up until the time you went to Europe in 1926, that you had several safety deposit boxes in various banks within the city of Los Angeles; those boxes were all in your own name, were they not?

A Of course.

Q Did your daughter Margaret have access to them?

A No - I don't think she did - other than going with me sometimes - from time to time.

Q Well, when you left for Europe - what I mean is, in 1926 - did you maintain any of those safety deposit boxes?

A Yes.

Q And who had access to them then, if anyone, while you were absent?

A No one.

Q Not even your daughter Margaret?

A I don't recall her ever having access, to go to the box alone, without me.

Q Now, Mary did not have any access to any of your boxes, did she?

A No; she could have hadm if she had asked.

735 (MR. LEWINSON: Relative to the matter of the letters referred to, prior to the closing of the deposition I will furnish you with the dates of the letters in question, and identify them as having been written either by Mrs. Shelby or by Mary. I will resist the production of the letters on the ground that they are immaterial, and that no proper foundation has been or can reasonably be laid for discovery, and on such other grounds as may be available; and it is agreed that subsequent to the filing of the Answer, you may apply to the court for an order requiring the production of those letters so identified, with the same force and effect as though you made the application prior to the closing of the deposition.

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(MR. STERRY: That is satisfactory. In other words, it would be the same as though we had asked her to produce those letters while her deposition was being taken?

(MR. LEWINSON: And the same as if she refused to do it, under the advice of counsel.

(MR. STERRY: And it may be deemed that she refused to do so, on any grounds that you think legitimate.

(MR. LEWINSON: And that the notary had instructed her, pursuant to your request, to produce them, and that you then made your application.

(MR. STERRY: It is agreed that that shall be made after the Answer is filed, so there will be no question as to what issues are presented, in order to enable the Court to rule on the same.

735 MR. LEWINSON: First, with reference to the date of the birth of Mary, and her birthplace, I now state that Mrs. Shelby if interrogated on that subject, would testify - and I stipulate the fact to be - that Mary was born on April 2, 1902, at Shreveport, Louisiana; that the place of her birth was a rented house in the city of Shreveport, the street address of which Mrs. Shelby is now unable to give. I suggest, however, in that connection, that the vital statistics on file in Shreveport will give you that information.

MR. SCHWARTZ: If any.

MR. LEWINSON: Well - if any? There is the information available; she was born in a place, and the place has an address.

MR. STERRY: I suppose he means if they have vital statistics. Well, she was born under the name of Juliet Reilly?

MR. LEWINSON: Juliet Reilly.