

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-ninth Legislature

OF THE

State of Maine

SPECIAL SESSION

1940

**KENNEBEC JOURNAL PRINT SHOP
AUGUSTA, MAINE**

HOUSE

Thursday, May 23, 1940.

This being the day designated in the Proclamation of the Governor for the meeting of the Eighty-ninth Legislature in extra session, the members of the House of Representatives assembled in their hall at nine o'clock in the forenoon, Eastern Standard Time, and were called to order by the Speaker.

Prayer was offered by the Rev. Mr. Akeley of Gardiner.

The **SPEAKER**: The Eighty-ninth Legislature has been convened in special session under Proclamation of His Excellency, the Governor. The Clerk will read the Proclamation.

**STATE OF MAINE
PROCLAMATION BY THE
GOVERNOR**

WHEREAS, it appears advisable that the Legislature of this State should meet in special session for the following purposes:

To consider legislation relative to unemployment compensation made necessary by certain changes in Federal Social Security laws.

To consider legislation concerning present laws relating to guaranty of titles of motor vehicles.

To act upon any legislation to promote the welfare of the State.

I, THEREFORE, by virtue of the power vested in me as Governor, convene the Legislature of this State, hereby requiring the Senators and Representatives to assemble in their respective chambers at the Capitol, at Augusta, on Thursday, the twenty-third day of May, 1940, at nine o'clock in the morning, Eastern Standard Time, in order to receive such communication as may then be made to them and to consider and determine on such measures as in their judgment will best promote the welfare of the State.

GIVEN AT THE Office of the Governor at Augusta and sealed with the Great Seal of the State of Maine this sixteenth day of May in the year of our Lord one thousand nine hundred and forty, and in the one hundred and sixty-fourth

year of the Independence of the United States of America.

LEWIS O. BARROWS,

(Seal)

Governor.

By the Governor

FREDERICK ROBIE

Secretary of State.

A true copy:

Attest:

FREDERICK ROBIE

Secretary of State.

Thereupon, the Proclamation by the Governor was ordered placed on file.

The Clerk thereupon called the roll of the House.

One hundred and thirty-eight members answering to their names, a quorum was declared to be present.

On motion by Mr. Noyes of Franklin, out of order and suspension of the rules, it was

ORDERED, that a committee of seven be appointed to wait upon His Excellency, the Governor, and inform him that a quorum of the House of Representatives is assembled in the hall of the House for the consideration of such business as may come before the House.

Thereupon, the Chair appointed as such committee Representatives Noyes of Franklin, Dow of Kennebunkport, Whitney of Bangor, Race of Boothbay, Dorsey of Fort Fairfield, MacNichol of Eastport, and Latno of Old Town.

The committee subsequently reported that it had conveyed the message entrusted to it.

On motion by Mr. Varney of Berwick, out of order and under suspension of the rules, it was

ORDERED, that a message be conveyed to the Senate that a quorum of the House of Representatives is present for the consideration of such business as may come before the House.

Thereupon, Mr. Varney was designated by the Speaker to convey the message to the Senate and Mr. Varney subsequently reported that he had performed the duty assigned him.

The following communication:

STATE OF MAINE
DEPARTMENT OF STATE

Augusta, May 23, 1940.

To Harvey R. Pease, Clerk of the House of Representatives of the Eighty-ninth Legislature:

In compliance with section 36 of chapter 2 of the revised statutes, I beg to report that there are the following vacancies in the representation of class districts as listed below:

Lewiston, Nap. H. Hamel, caused by death.

Sherman, Island Falls, Hersey, Benedicta, Silver Ridge, Crystal and Macwahoc, Leon V. Bowers caused by resignation.

Bridgton, J. Bennett Pike caused by resignation.

Cumberland and Falmouth, John T. Gyger of Cumberland caused by death.

Augusta, Frank A. Farrington and Carl F. Fellows caused by resignation.

Rumford, Roxbury, Andover and Byron, Merle F. Burgess resigned:

Paris, Woodstock, Milton Plantation and Franklin Plantation, Oayma J. Colby of Paris caused by resignation.

Madison, Solon and Athens, James H. Thorne of Madison, caused by death.

Belmont, Liberty, Lincolnville, Searsmont, Morrill, Palermo, Northport, Montville, Freedom and Knox, Calvin W. Bangs of Freedom, caused by death.

York, Old Orchard Beach and North Kennebunkport, Montague Young of Old Orchard Beach, caused by resignation.

Resignations of the above members are on file in this office.

Respectfully,

(Signed) FREDERICK ROBIE,
Secretary of State.

The communication was read and ordered placed on file, and the names stricken from the rolls of the House.

The following communication:

STATE OF MAINE
DEPARTMENT OF STATE

Augusta, May 23, 1940.

To Harvey R. Pease, Clerk of the House of Representatives of the Eighty-ninth Legislature:

In compliance with section 36 of chapter 2 of the revised statutes, I

hereby certify that in accordance with the provisions of section 74 of chapter 8 of the revised statutes a special election was held in the towns of Falmouth and Cumberland for the purpose of electing a representative to the Eighty-ninth Legislature to fill a vacancy caused by the decease of John T. Gyger, late of Cumberland;

That said election was held on the eighth day of May, 1940 at which Horace A. Hildreth of Cumberland was elected representative to the Eighty-ninth Legislature by said class towns as appears by the report of the Governor and Council under date of May 22, 1940;

That on this twenty-second day of May, 1940 the said Horace A. Hildreth personally appeared before the Governor and Council and took and subscribed the oaths of office required by the Constitution to qualify him to enter upon the discharge of his official duties.

IN TESTIMONY WHEREOF I have caused the seal of the State to be hereto affixed at Augusta this twenty-third day of May A. D. 1940, and of the Independence of the United States of America the one hundred and sixty-fourth.

(Seal)

(Signed) FREDERICK ROBIE,
Secretary of State.

The communication was read and ordered placed on file.

The SPEAKER: The Chair will designate the gentleman from Portland, Mr. Paul, to escort the gentleman from Cumberland, Mr. Hildreth, to his seat.

Thereupon, the new member was escorted to his seat, amid the applause of the House, the members rising.

The SPEAKER: The House may be at ease.

House at Ease

At this point a message was received from the Senate, through its Secretary, informing the House that a quorum was present in the Senate Chamber and that body was ready to transact such business as may come before it.

House at Ease

A message was then received from the Senate, through its Secretary, proposing a Joint Conven-

tion to be held forthwith in the hall of the House of Representatives for the purpose of extending an invitation to His Excellency, the Governor, to attend the Convention and make such communication as pleases him, and for the further purpose of confirming the appointment of the present Auditor or choosing another person to fill the office during the unexpired term.

On motion by Mr. Varney of Berwick, it was voted that the House signify to the Senate its concurrence in the proposal for a Joint Convention for the reasons as stated.

Thereupon, the Clerk of the House was delegated to perform that duty and he subsequently reported that he had so done, which report was accepted with the thanks of the House.

At this point the Senate came in and a Joint Convention was formed.

In Convention

The President of the Senate in the Chair.

On motion by Senator Tompkins of Aroostook, it was

Ordered, that a committee be appointed to wait upon the Honorable Lewis O. Barrows, Governor, and inform him that the two branches of the Legislature are in Convention assembled in the hall of the House of Representatives and extend to him an invitation to attend the Convention and present such communication as he may be pleased to make.

The Chair thereupon appointed as members of that committee on the part of the Senate, Senators Tompkins of Aroostook, Owen of Kennebec, Worthen of Penobscot; and on the part of the House, Representatives Bird of Rockland, Dean of Greenville, Everett of Norridgewock, McGillicuddy of Houlton, Clough of Bangor, Donahue of Biddeford, and Labbe of Fort Kent.

Subsequently Senator Tompkins, for the committee, reported that the committee had discharged the duty assigned to it and that His Excellency, the Governor, was pleased to say that he would attend forthwith.

The report was accepted.

The Honorable Lewis O. Barrows, Governor, accompanied by the Executive Council, then entered the hall amid applause, the

audience rising, and the Governor addressed the Convention as follows:

THE MESSAGE

Mr. President, and Members of the Eighty-ninth Legislature:

May I not extend a word of greeting to each of you as you assemble today to consider problems designed to promote the welfare of the State of Maine.

The Constitution of Maine provides that the Governor may, on extraordinary occasions, convene the Legislature. No one will deny that an extraordinary situation has been apparent for several weeks and it may not be inappropriate to begin your deliberations with what might aptly be termed an extraordinary or even unusual message.

The facts that face each of us, as officials of the State, require cold analysis and our consideration of plain facts. Little else should be or will be tolerated by any of our citizens. This is not the time for partisan or political divisions. The welfare of the entire State requires as prompt and as coordinated action from each of us, as is possible.

In the proclamation for this present session, the first item listed for your consideration is legislation relative to Unemployment Compensation made necessary or desirable by certain changes in Federal Social Security laws.

Your regular session adjourned on April 21, 1939. Under our existing Unemployment Compensation law a tax of 2 7/10 per cent is collected from all covered employers, upon the entire wages paid, and transmitted to the Federal Treasury.

The last Congress amended the Federal Social Security law on August 10, 1939, by exempting the collection of the tax on wages paid in excess of \$3,000 per year from those states wherein the state laws were in compliance on or before January 1, 1941. This means, in other words, unless our law is amended to comply with the present Federal law before January 1, 1941, our employers will be unnecessarily penalized to the extent of \$150,000 per year, as estimated by our Unemployment Commission. I recommend this change.

Another suggestion that may be

presented for your decision is a change in our present law from a basis of "wages payable" to "wages paid." The chief advantage that will be advanced for this is simplification in bookkeeping and reporting that is required for social security tax purposes. The extent of the actual saving is somewhat problematical.

Another proposal will provide for inclusion of so-called Federal instrumentalities such as National Banks, Trust Companies, Loan and Building Associations, etc. It is explained that the effect of this is to add to our compensation fund at very little increased administration expense, because at present, under the Federal law, the tax of 3 per cent is collected and retained on wages paid up to \$3,000 per year.

Another amendment is proposed to make uniform the State definition of what constitutes "agricultural labor." This, I am told, does not add taxes but does eliminate payment of taxes in certain instances.

Still another suggestion will be offered authorizing the State Treasurer and State Controller to designate employees to prepare and sign checks in the Unemployment Compensation Agency, as demanded by the Federal Agency. Under this proposal the employees will be paid entirely by social security funds, although they will be under the control of the Treasurer and Controller. I recommend this change.

I also suggest your favorable consideration of a shorter waiting period for benefit payments and larger weekly benefit payments. I believe the condition of our present fund is ample to justify both.

The next item listed for your consideration is in reference to Chapter 239, of the Public Laws of 1939, "An Act Relating to Guaranty of Titles of Motor Vehicles and the Facilitation of the Recovery of Stolen Motor Vehicles," which was approved April 19, 1939.

As you so well know, this legislation was presented during the last regular session, in the form of three separate bills. After public hearings, it was reported out of committee with a unanimous report "ought to pass" in consolidated form. It had an orderly passage through both branches, although it was tabled five different times. The Legislative Record does not disclose an adverse word in debate and not

a single dissenting vote by any member of either branch. In addition, no citizen ever registered a protest with me until after the bill had become a law, and, as far as I am aware, no effort was made to initiate a referendum to suspend its operation during the usual ninety-day period after its approval. I am advised that a law very similar to this one is operative in thirty-three states, and in no other instance has a concerted effort been made to remove the law from the statute books. Very likely many states may have experienced some of the tribulations in perfecting administrative details as this State did. From my own observation, the staff of the Motor Vehicle Division has worked extremely hard, under the additional handicap of lack of proper space, to meet the demands and provisions of this bill.

No sooner had the bill become a law than a concerted drive started, urging and demanding a special session to rescind it. No action was considered until my Party, in convention assembled in Portland, on April 4, adopted a platform resolution calling for the repeal of this law. Even since that time, however, I have had letters from many automobile dealers, wholly unsolicited, urging that many of the desirable features of the law be retained. While the law never was an "administration measure," so-called, it apparently does have some provisions of merit as pointed out by officials of the Maine Automobile Association who have visited my office; nevertheless, my Party has spoken in concise language. Therefore, I suggest the repeal of this law with the resultant loss in whatever revenue it might produce.

Although not specifically listed in the formal call, I suspect that the financial report, now ready for your analysis, holds the greatest amount of popular interest for all of you.

As you will recall, the Eighty-eighth Legislature, by virtue of a legislative order, directed the Governor and Council to publish "an analysis of the cash position of the State in the daily and weekly newspapers with a full and complete explanation of the same." That order was complied with on August 18, 1938, at a cost of \$19,644, which amount was entirely absorbed in the Executive Department. The report was prepared and signed by the State Controller, covering the fiscal year ending June 30, 1938. Let me

emphasize the fact that the published report was prepared and signed by the State Controller.

That particular report contained the signed statement of the Controller that the State had balanced its budget for the year by \$386,744.17, had reduced its debt by \$989,000 during the year; had not increased the tax rate; had actually increased the sinking fund reserve that year to \$722,379.16 and did not negotiate any part of its temporary borrowing capacity in anticipation of taxes during that year. In addition, it made provisions to amortize the deficiency from the preceding administration of over two million dollars and enacted a law and paid Old Age Assistance to 10,158 aged and deserving citizens of Maine.

Believing that the taxpayers were entitled to have a financial report made available to them each and every year, I requested this body to enact a statute providing for the publication of an annual statement of the financial condition of the State by the State Controller. You complied with that request by enacting Chapter 292, of the Laws of 1939, providing for a report in less detail but containing all essential information.

That law was complied with by the report which was published on August 9, 1939, covering the fiscal year ending June 30, 1939, at a cost of \$5,000. That report, once more prepared and signed by the State Controller—not by the Governor—certified that during the fiscal year of 1939, the State had balanced its budget by \$12,355.08; had reduced its debt that year by \$1,015,000; had not increased the tax rate; had reduced its sinking fund reserve from \$722,379.16 to \$185,734.24, by your legislative act of transferring from this account the sum of \$549,000 to General Funds for added Health and Welfare demands; had provided \$200,000 in this year as it did in the previous year as added funds for the Department of Education; had added one armory in each of the two years; had increased the number receiving Old Age Assistance to over 12,000; and, once again had accomplished all of this without any temporary borrowing in anticipation of taxes. I am of the opinion that this record compared rather favorably with that of many other states, and certainly more so than with the record of the Federal Government.

Then, out of a clear sky, the Ban-

gor Daily News, on December 9, 1939, printed sensational headlines to the effect that the sinking fund reserve had been reduced over two million dollars in eight years and that our balanced budget was a myth, etc. More specific perhaps was the statement in heavy type, "The Governor says the budget has been balanced. Close scrutiny of the statements that will be published in the News will show that Maine still awaits a real balanced budget."

That statement naturally startled me as I assume it did each of you. My first question was, "Who makes such an indictment as this?" and to my amazement, no answer to that could be found in the entire paper. Furthermore, it seemed to indicate two significant facts because (1) no other newspaper in the State printed a single figure during the entire series, so-called, except a Democratic feature columnist in Western Maine, who, even at that time, was an avowed candidate for office, and (2) not until January 24, 1940, almost two months later, did it publicly appear who the so-called expert accountant was that was supposed to have compiled the press analysis. On that date (January 24, 1940), the News announced that it had "recently engaged the services of an expert accountant, C. Vaughan Chapman, for several years with the Securities Exchange in Washington, and prior to that well known in Maine accounting circles." I began to wonder who this person might be, as I knew that no person had been at the State House to review the accounting records at any time. I then recalled that my files contained several letters from Mr. Chapman, one dated June 4, 1937, making application for appointment as Commissioner of Labor, another letter dated May 10, 1938, making application for "something" in the Banking Department, Public Utilities Department, Auditing Department, or as State Controller. In addition, I have had frequent visits, soliciting "any kind" of an appointment—all to no avail.

It was also generally understood that in the preparation of his articles, Mr. Chapman was frequently consulting with and being compensated by two candidates for a statewide office in the coming primary election. Within the past ten days, Mr. Chapman admitted a portion of this statement to me and to other State officials, although the News

and the candidates will, of course, stoutly deny it. In addition, it was generally known that Mr. Chapman visited other Maine papers and tried to syndicate his articles for \$200 and without success. All of these circumstances rather indicated to me that the whole attack was largely a political drive against the present State administration. Because of this belief, no great attention was paid to it, although if you will refer to Exhibits A and B, all photostats, which are attached to and made a part of this message, you will discover what precautions were taken for the protection of every citizen of the State. I now read to you Exhibits A and B.

EXHIBIT A

State of Maine
Executive Department
Augusta

December 11, 1939

Elbert D. Hayford, State Auditor
State House
Augusta, Maine

Dear Mr. Hayford:

I have noticed in the Bangor Daily News, issue of Saturday, December 9, what appears to be the beginning of a series of articles attempting to create the impression that the finances of Maine are in a very precarious condition and that the written reports which have been submitted to me over the signature of the State Controller are inaccurate.

While, as you know, the reports referred to are not compiled by this office, nevertheless my confidence in the integrity and the ability of the State Controller and Budget Officer is such that I cannot bring myself to believe for a moment that there is any justifiable basis for the publicity or the reports which have appeared.

I do feel that my responsibility as Governor requires me to determine the truth or the falsity of the charge for the protection of the citizens of Maine and I am turning to you as State Auditor to so inform me.

I am, therefore, requesting that you secure a copy of the Bangor Daily News, issue of December 9, 1939, study the printed article very carefully, and then be sure to obtain a copy of the paper as it appears each day for whatever length of time these articles may run. At the conclusion of the series I shall

then expect from you a complete report indicating whether or not you find any basis for such sensational articles.

Naturally, if the entire series appears to have only the significance of political propaganda, I shall not be very much disturbed as I have long since discovered that anything may be attempted on the eve of a political campaign. On the other hand, if there is any basis or justification for the report which apparently began on the ninth, I do want to know it from you as quickly as possible.

For your information I would advise you that I have carefully looked through all of the other Maine papers issued on the ninth and of this date and I fail to find even the slightest reference in any paper except the News. Also it has not appeared to date who is preparing the News analysis or who may possibly be financing it. However, in due course that information may come to the surface and afford some light on the credibility of the entire series.

I shall await your written report with much interest.

Very truly yours,

(Signed) LEWIS O. BARROWS,
Governor

EXHIBIT B

State of Maine
State Department of Audit
Augusta

December twelve
1939

Hon. Lewis O. Barrows,
Governor of Maine,
Augusta, Maine.

Dear Sir:—

I acknowledge receipt of your letter of December 11th.

I shall procure a copy of the Bangor News of December 9th and will follow each issue as you have requested.

As soon as possible after the series have apparently concluded I will render you a written report.

Very truly yours,

(Signed) ELBERT D. HAYFORD,
State Auditor

May I not say at this point that your present Governor is not a trained accountant, auditor, or lawyer, and never has pretended to be such. Furthermore, he did not prepare any part of the published financial reports under attack. He

has, however, merely tried to do his best at all times for all the citizens of Maine.

Your attention is next directed to Exhibit C attached to this report, noting especially the date, which I felt was sufficient assurance to me as to the accuracy of the reports of the State Controller, as published, and said so, publicly. May I not read Exhibit C.

EXHIBIT C

State of Maine

State Department of Audit
Augusta

December twenty-seven

1 9 3 9

Hon. Lewis O. Barrows,
Governor of Maine,
Augusta, Maine.

Dear Sir:—

Referring to your written request to this Department dated December 11th I hereby report that in compliance with your request this Department has examined the books as kept by the Department of Finance—Bureau of Accounts and Control, for the last two fiscal years ended June 30, 1938 and June 30, 1939. The receipts and expenditures as recorded on the books of the State have been checked. In accordance with the provisions of Chapter 216, Public Laws 1931, this Department has reviewed all vouchers covering disbursements and find them according to law.

A check of transfers or accounting adjustments has been made and in every case proper authority for such entries was found.

All entries to the Sinking Fund Reserve account have been carefully reviewed and we believe that the balances in this account as at June 30, 1938 of \$722,379.16 and \$185,734.24 on June 30, 1939 correctly reflect the condition of said account as published by the State Controller.

The Eighty-ninth Legislature by authority of Chapter 101, Private and Special Laws 1939, authorized the transfer from the Surplus or Sinking Fund Reserve account of \$549,000.00 to cover anticipated overdrafts in the Health and Welfare Department in the fiscal year ended June 30, 1939.

We find that the books of the State correctly reflect a balanced budget for each of the past two fiscal years with a Surplus of \$386,744.17 for the year ended June 30,

1938 and \$12,355.08 for the year ended June 30, 1939.

We further find the books of the State reflect that during each of the above two fiscal years no temporary loans in anticipation of taxes have been negotiated.

Very truly yours,

(Signed) ELBERT D. HAYFORD,
State Auditor.

I realized that the rumors still persisted, and as a result, on February 11, 1940, I called both Mr. Runnells and Mr. Hayford to my office and said, very frankly, "The official reports and the integrity of both of you gentlemen are under constant attack and, I feel, unjustly so. You should be either vindicated or condemned and there is only one method that I know of, and that is by an independent audit. The reports as printed are either right or wrong, and I believe it should be clearly established."

Both gentlemen heartily agreed and when I asked them to write their assent, they were glad to do so. May I not read Exhibit D.

EXHIBIT D

State of Maine

Department of Finance
Bureau of Accounts and Control
Augusta

February 17, 1940

To His Excellency, Lewis O. Barrows,
Governor of Maine,
Augusta, Maine.

Dear Governor Barrows:

By order of the 88th Legislature, from the Senate the House concurring, and in compliance with Chapter 292, Public Laws of 1939, the Controller of State was directed for each of the two fiscal years 1938 and 1939 to provide for the publication of an annual statement of the financial condition of the State of Maine. Both the Order and the Act have been complied with and on August 18, 1938 appeared the analysis of the financial condition of the State of Maine for the fiscal year ending June 30, 1938 in the various newspapers of the State. Again on August 14, 1939, report for the fiscal year ending June 30, 1939 was published.

All vouchers and all income are pre-audited by the Controller's Office and all vouchers post-audited and all income, insofar as the appropriations by the Legislature will permit, are post-audited by the State Auditor's staff. We have en-

deavored to make an honest and accurate statement of the financial condition of the State for each of the two fiscal years, which was done to the best of our ability. We believe these statements reflect the records as they stand and were so presented.

Of recent date, such reports have been questioned by certain individuals of the State. The reputation and integrity of both the State Auditor and State Controller has been questioned. It is with this thought in mind and that the people of the State have the matter immediately clarified and a satisfactory explanation as to the correctness and accuracy of such reports, as well as the audit of the Auburn Registration Bureau, that we respectfully request that the State of Maine employ some reputable accounting firm to make an audit of the State's records that a report may be had as to the correctness and accuracy of such records as well as the aforementioned published reports.

Respectfully submitted,

(Signed)

WILLIAM A. RUNNELLS,

State Controller

(Signed) ELBERT D. HAYFORD,

State Auditor

Both officials returned to my office together, signed their letter jointly, and I then said, "This will either vindicate each of you gentlemen, as I am confident that it will, or else your usefulness as a State official is ended." Both said, almost in unison, "We understand that." And let me say that if there had been any protest to my suggestion, there might not have been any independent audit because I had implicit confidence in both of these officials, just as I believe the last six Governors, who preceded me, had. Furthermore, I believe that you and preceding Legislators have had the same degree of confidence in them.

For your information, Mr. Hayford first entered State service in 1905, and Mr. Runnells in 1918, being appointed State Controller in 1932 when the Code Law became effective.

As a result of the request shown in Exhibit D, the Executive Council gave me verbal authority and approved my selection of the auditing firm of Ernst and Ernst. My choice was determined by the fact that this firm has a national reputation for integrity, had never been employed by the State in any capacity,

and does have a branch office in Portland, Maine—a truly independent, outside audit, in other words. Now may I read to you Exhibits E, F and G:

EXHIBIT E

State of Maine
Executive Department
Augusta

February 20, 1940

Honorable Franz U. Burkett
Attorney General of Maine
Augusta, Maine

Dear General:

In view of the constant and, in my opinion, misleading statements that have been running serially in one of the newspapers of the State, the Bangor Daily News, claiming that the financial condition of Maine, as indicated in the report compiled by the State Controller each year for the past two fiscal years, is not correct; that columns are juggled, and that the State has not been able to maintain a balanced budget, it has seemed to me and to the members of the Council that the time has arrived when an independent audit should be made of both the books and the reports herein mentioned.

After discussing this matter with the members of the Council, I have engaged the firm of Ernst and Ernst, with headquarters in Portland, Maine, to make such an examination and report their findings to me in writing.

I assume that this is a proper charge against the Contingent Fund. Will you kindly advise me if this is a legal procedure for me to follow?

Very truly yours,

(Signed) LEWIS O. BARROWS,
Governor

EXHIBIT F

State of Maine
Department of Attorney General
Augusta

February 20, 1940

The Honorable Lewis O. Barrows
Governor of Maine
Augusta, Maine

My dear Governor Barrows:

In your letter of yesterday, February 20th, you called my attention to certain statements which have been published in one of the newspapers of the State in which it is claimed that the financial condition of our State, as indicated in the report compiled by the State Control-

ler each year for the past two fiscal years is not correct; that certain columns are juggled and that the State has not been able to maintain a balanced budget.

You then informed me that, after having discussed the matter with the members of the Executive Council, you have engaged the firm of Ernst & Ernst to make an audit and examination of the State's finances for the past two fiscal years, and to report their findings to you in writing.

You ask my advice as to whether or not this is a legal procedure for you to follow.

The citizens of the State are entitled to full information regarding the true financial condition of the State. The statements to which you have referred as appearing in at least one of the newspapers of the State have undoubtedly created a feeling that the reports made by the State Controller do not reflect the true condition of State finances, and they have occasioned considerable discussion and uncertainty. I believe that, in view of this situation, it would be for the best interests of the State and all its citizens to have full investigation made of this entire situation, and your decision to employ a firm of auditors not in any way connected with the State administration seems to me very sound. I believe that you are justified, with the approval of the Executive Council, in using sufficient sums from the Contingent Fund for this purpose.

Sincerely yours,

(Signed) FRANZ U. BURKETT,
Attorney General

EXHIBIT G

State of Maine
Executive Department
Augusta

February 21, 1940

Ernst and Ernst
443 Congress Street
Portland, Maine
Attention: J. A. Noon, Manager
Dear Mr. Noon:

A series of articles has appeared at different intervals since December 9, 1939, in only one newspaper of the State, the Bangor Daily News, setting forth by innuendo and indefinite representation that the finances of the State of Maine are not correctly reported.

As a result, I desire to engage the services of your firm to examine the

only two published reports of the State finances and also the financial records of the State and to advise me in writing as to their correctness at the conclusion of your study. I am particularly desirous of knowing whether or not the vouchers covering expenditures are found and whether accounting transfers, which may appear, are in compliance with law.

My association over the years with the Budget Officer, the State Controller, and the State Auditor is such that I have only the highest opinion of the ability and the integrity of each of the above-named officials. However, because of the representations contained in the published statements which have appeared from time to time, I am of the opinion that my obligation as Governor of the State requires me to determine and to report to the citizens of the State on the accuracy or inaccuracy of the contentions that have been raised.

Both of the reports referred to have been audited and certified to me, but I am seeking the services of Ernst and Ernst primarily because of the splendid reputation they have enjoyed and, furthermore, because they have not had any connection with any of the State's business and have never held either appointive or elective office of any kind under the present administration.

Will you kindly engage such a force as may be necessary in order to render your report in writing on or before March 31, 1940?

Very truly yours,

(Signed) LEWIS O. BARROWS,
Governor

Consequently, on February 28, 1940, the Executive Council passed Council Order No. 145, employing Ernst and Ernst "to audit the financial accounts of the State for the fiscal years 1937-38 and 1938-39 and to render a written report to the Governor as soon as possible."

The work began under the personal supervision of Mr. A. T. Wilkinson, a resident partner of the firm in Boston, and Mr. J. Arthur Noon, the Manager of the Portland branch, and with a maximum of sixteen assistant auditors, all regular employees of this firm. I can say from personal observation that they have worked diligently and have maintained long hours in an effort to complete their labors in the shortest possible time.

On April 1, 1940, I was surprised, as I know all of you were, to be advised that during the afternoon Mr. Runnells, the then Controller, had been taken to the Augusta General Hospital, suffering from two bullet wounds in his lung, which, he stated to the State Police, were accidentally self-inflicted.

As you recall, the Republican State Convention was held in Portland on April 4, 1940, at which time the Party platform was accepted, asking for the repeal of the so-called Title Law. Convinced that the declaration of the Party was sufficient demand for action, I sought the advice of legislative leaders, and on Sunday afternoon, April 7, I invited the President of the Senate, the Republican floor leader of the Senate, the Speaker of the House, the floor leader of the House, and the Attorney General to meet with me in Portland in order to consider what action should be taken. The consensus of opinion at that meeting, as I gathered, was that a special session of probably a short duration was desirable. As a result, I announced to the Associated Press that same evening my intention of convening the Legislature on Thursday, April 18, and then returned to Augusta.

At eleven o'clock Monday forenoon, April 8, Mr. Wilkinson and Mr. Noon came to my office with a tabulation of figures indicating discovery by detailed analysis of sales slips during 1938 and 1939, showing the sum of \$22,148.95 transmitted to Mr. Runnells and not accounted for by him. Frankly, I looked at this report for a moment in abject amazement and then said, "Do you mean this is embezzlement?" The answer was, "Yes, and it may reach substantial amounts and will probably cover a long period of time."

The Attorney General was summoned at once by telephone from Portland and that evening certain employees were questioned. I then asked for a signed report from Ernst and Ernst, which was delivered to me late the next forenoon, Tuesday, April 9. That preliminary report will appear in the appendix of the complete report and will show that at that moment there appeared a shortage "in excess of \$35,000" in the Controller's office which possibly extended back to the inception of the Code in 1932. The substance of the report and the amount of the shortage were

publicly released through the press in the afternoon papers that very day. Mr. Runnells' resignation was requested, obtained, and delivered to me that evening about six o'clock.

On April 10, we were advised that Mr. Runnells' brief case contained a substantial sum of money that belonged to the State and would be delivered to the Attorney General later that day. Examination showed that it did contain \$26,420 and it is now in the custody of the State Treasurer. The Council was convened in special session and, at my suggestion, passed council order No. 252, directing Ernst and Ernst to extend their audit to cover the financial records of the State from the inception of the Code in 1932. On this day also, the Council approved the selection by the Commissioner of Finance of Mr. Harold E. Rodgers as State Controller.

Because of the nature of the developments up to this point and the necessary time required by Ernst and Ernst to complete the accounting ramifications, it seemed good judgment to defer the special session until such time when it might be possible to present to you a definite, tangible report. Consequently, I requested the Deputy Secretary of State, the official who personally supervises such details, to wire each member to that effect. Such a wire was dispatched on April 10th. The next day I received several telephone calls and a few letters from various members of the Legislature, indicating that they questioned my authority for such action. As a result, the Honorable Justices of the Supreme Judicial Court were assembled at my request, acting under authority contained in Article VI, Section 3, of the Constitution, and the formal question of law was presented to them on April 15. On April 16, the Justices of the Supreme Judicial Court returned their unanimous decision that: "The Governor in his discretion may revoke such call by proclamation issued prior to the convening of the Legislature pursuant to the original proclamation." By utilizing the radio and the press, I hoped to inform as many members as possible and the second proclamation was mailed out on April 16.

On April 11, Ernst and Ernst filed with me another preliminary report, as their work progressed, indicating irregular transactions between the Controller's office and the Treas-

urer's office, likewise covering a considerable period of time. Therefore, in the presence of the Executive Council, the Attorney General, and with the approval of all, Mr. Hayford was summoned. His resignation was requested by me and received. Following this, Mr. Winship was called to the office, and in the presence of the same group, his resignation was requested and received.

On April 12, because of the immense amount of detail involved in all of the legal phases, the staff of the Attorney General, which then consisted of Attorney General Burkett, Mr. John S. S. Fessenden, and Mr. Charles P. Nelson, was augmented by Mr. Ralph M. Ingalls and Mr. Leonard A. Pierce.

In the meantime, a warrant for the arrest of Mr. Runnells had been secured, charging "larceny by embezzlement" and lodged with the State Police, and a guard was established at the hospital outside his room. The warrant was not technically served because of Mr. Runnells' condition, by order of his physician. However, he is and has been virtually under arrest. At the moment of writing this message, the arrest has not been made although the guard has not been withdrawn. Several physicians have certified that the condition of Mr. Runnells has improved to the extent that the warrant could now safely be served, but the same doctors estimate that it may be a month before Mr. Runnells recovers to the point where he can be brought into court. I expressed my belief that the warrant should be served even if it did result in the State assuming the hospital expenses and urged that the technical arrest be made. However, our legal department, after giving this mature consideration, felt that no useful purpose would be served until the accused could be immediately arraigned in court after his arrest. Therefore, I withdrew my personal opinion, and I have left the responsibility of the service of the warrant entirely to their best judgment and discretion.

On April 16, the Council approved the selection by the Treasurer of Mr. Everett Downs, as Deputy Treasurer.

On April 17, Ernst and Ernst delivered a third preliminary report, indicating by a supporting schedule

that during the past three years checks had been prepared by the Controller, drawn on the State Treasury, for interdepartmental transfers. The checks had been cashed improperly, the money delivered to the Controller and not accounted for. These checks amounted to over \$32,000. Upon receipt of this written report, the Treasurer, Mr. Smith, was called to the Executive Department. Once more, in the presence of five members of the Council, and the Attorney General, and with the approval of all, his resignation was requested and the request was refused. Whereupon Mr. Smith left my office and he released to the press the statement that he had been requested to resign and had refused.

Mr. Owen, the Commissioner of Finance, then appeared and voluntarily submitted his resignation, stating that although he had not been accused of any misappropriation of funds, he did feel his responsibility for the acts of the employees of his department and that his judgment and confidence were apparently misplaced. All of these resignations are a matter of Council record and may be reviewed in the office of the Secretary of State by any interested citizen.

May I not state at this juncture that requesting the resignation of any or all of these State officials was a heartache to me. I admired them, had worked with them, and believed in all of them implicitly—but my duty, in line with my oath of office, seemed clear.

On April 19, by authority of Article VI, Section 1, of Chapter 216, of the Public Laws of 1931, the President of the Senate appointed Mr. William D. Hayes as State Auditor. Under this law it will be your duty, during this session, either to confirm this appointment or to choose another person to fill out the unexpired term.

Coincident with these developments it was discovered that Mr. Runnells had five safety deposit boxes in various banks of Augusta, Hallowell, and Gardiner, rented jointly with his mother and his brother. An examination of these boxes, under the proper conditions, disclosed cash and securities to the extent of \$40,652. After the contents were carefully listed by attorneys of the State, in the pres-

ence of the attorneys for the Runnells family and the bank officials, the boxes were sealed and the keys delivered into the custody of Mr. Justice Hudson.

On April 25, the Council confirmed my appointment of Honorable Willis E. Swift as Commissioner of Finance. This, under our existing law, made possible the formal approval of Honorable Frank H. Holley as Tax Assessor, Honorable Harold E. Rodgers as Controller and Honorable Homer M. Orr as Purchasing Agent.

On May 1, the Attorney General filed a bill in equity in the Supreme Judicial Court, in Kennebec County, on behalf of the State versus William A. Runnells, Jennie L. Runnells, Edward S. Runnells, the First National Granite Bank of Augusta, the First National Bank of Gardiner, and the Depositors Trust Company. The various exhibits specified therein alleged a shortage from the State Highway Garage in the amount of \$53,119.83, dating back from January 1, 1933. Another exhibit specified the sum of \$82,151.97 from irregularly-cashed interdepartmental checks by the Treasury Department, dating from August 21, 1934, to January 24, 1940, as well as the exhibit showing the contents of the safety deposit boxes. By order of the Court, the public hearing on the bill in equity will probably take place sometime after the middle of June, although I am told that possibly it may be late fall before final decision is rendered. It is not at all unlikely that as time goes on, a supplemental bill in equity may be filed and it is not at all improbable that further warrants may be obtained, followed by court prosecutions.

Personally, I have unlimited confidence in our present legal staff, and I propose to follow their decisions upon the various phases of court procedure that must and surely will follow. I hope that you may concur in this opinion.

You realize that the outline which I have presented in rather narrative form, thus far, is more or less for the purpose of acquainting you officially with the more important details of the events occurring since the first of April.

On May 15, I received the complete report from Ernst and Ernst, covering in detail the financial condition of Maine for the fiscal years

of 1938 and 1939, in compliance with instructions contained in the council order of February 28, 1940. The same day it was filed with me, the problem of printing the report was next to be considered because of my desire expressed so many times to call the session just as soon as possible. On account of the importance of the report, I was very anxious that every member of the Legislature should be provided with a complete copy in the shortest possible time. With the assurance that the printed reports could be made available by Thursday, May 23, I signed a proclamation for the convening of the Legislature on the very day the report was delivered to me from Ernst and Ernst. My present message could not be considered, of course, until I had some knowledge concerning that report.

With pardonable pride, I hope that you and every other citizen will carefully examine this report. You will discover that contrary to the published report for the fiscal year of 1938, showing a budget balanced by \$386,744.17, it should have been by \$209,639.47. Also, you will discover that contrary to the published report for the fiscal year of 1939, showing a budget balanced by \$12,355.08, it should have been by \$96,265.13. Let me repeat these figures.

Furthermore, the financial position of the State has been improved during the past two fiscal years (1938 and 1939) by a reduction in the bonded debt by nearly \$2,000,000 and all of this without negotiating, during my tenure of office at least, a single penny of the temporary borrowing capacity of the State.

And, notwithstanding the reduction of nearly \$2,000,000 in the bonded debt during the past two years, the sinking fund reserve, as of June 30, 1939, was not \$185,734.24, as published by Mr. Runnells, but, as shown by Ernst and Ernst, it should have been \$187,847.92. Let me repeat that figure.

Instead of "Maine's sinking fund reserve being reduced over two million dollars in eight years," as the Bangor News would have you believe, it now proves to be the largest figure ever reported in the sinking fund reserve since 1931.

When you refer to page 14 of the complete report, and the supporting schedule on page 80, you will notice that the State had unrecognized as-

sets in the amount of \$724,736 that are not included. If our accounting records had been on an accrual basis, the sinking fund reserve account would have been increased by that amount.

Members of the Eighty-ninth Legislature, and my fellow citizens of Maine, I am giving you my reply, with documentary evidence, to the criticisms which I have endured in silence for the past year.

When you examine the complete report you will discover, under the caption of defalcation, that the total amount of all irregularities revealed to the date of the compilation is in excess of \$157,000 and that the manipulation is first definitely established in 1931. That is one year prior to the creation of the so-called Administrative Code.

There are garage sales slips not accounted for in 1930, but due to the inaccuracy of the records it is very difficult to conclusively determine the amount. However, the present Highway Garage was constructed in 1920, and from 1920 to January 1, 1932, the date when Mr. Runnells was appointed as State Controller under the Code, he was chief bookkeeper in the Highway Department and supervised all of these accounts. One may naturally wonder, then, when it all really started. Then you should realize that when Mr. Runnells became Controller in 1932, the bookkeeping of the Highway Department was transferred to the Controller's office and the cash transactions of the garage continued to be handled by him personally up to the time of his resignation in 1940. All of this appears to be contrary to the Code provisions. As Controller, Mr. Runnells was not bonded inasmuch as the Code Law did not anticipate that this official should handle any cash receipts.

This, then, justifies the contention that the Code Law was never established or followed as it was enacted, in this regard, at least. But it is a strange corollary now to refer to the original report rendered by the staff of the National Institute of Public Administration, called "State Administrative Consolidation in Maine" which was transmitted October 21, 1930. Under the Department of Finance, appearing on page 52, it says:

"An up-to-date machine system of accounts should be installed in the proposed bureau of accounts and control. This may be accomplished by selecting as the head of the bureau a person who is already ac-

quainted with the financial operations of the State, such as the chief accountant of the Highway Commission, (this was the position then held by Mr. Runnells) giving him (Mr. Runnells) authority and funds to advise with Governmental accountants, to engage such assistance as he may need from outside the State, and to oversee the preparation and installation of a complete system."

This was surely the endorsement of experts and apparently they must have had confidence in Mr. Runnells because when the department was established, their recommendations were followed in this instance, at least.

The expense of the audit by Ernst and Ernst seems amply justified, therefore, by the discovery of the misappropriation of funds by the former Controller, because the drain on the funds of the State for the past ten years, at least, and probably longer—through both Republican and Democratic administrations alike—has been stopped.

With the thought in mind that you might desire a short resume of some of the more essential features of the complete report, I feel that:

(1) For the first time in the State's history there will be made available to the citizens a complete and understandable report of the financial condition for the last two fiscal years.

(2) The examination has demonstrated the strong financial position of the State.

(3) Every citizen is now furnished with an impartial, independent opinion as to the condition of the sinking fund reserve and also the answer to the question of whether or not the State has lived within its income and balanced its budget for the fiscal years of 1937-38 and 1938-39. The report shows that it did accomplish both of these last two objectives.

(4) The examination has developed information which will be available and helpful not only to the Attorney General's Department but to other departments in collecting amounts due the State. In the case of taxes assessed against banks this may mean a recovery of a very substantial amount which otherwise would have been lost to the State through default.

(5) As a result of the independent audit, many of the accounting errors in the accounts receivable, cash accounts, securities, trust funds,

etc., have been brought to light and are now being corrected. This is likewise true with respect to accounting procedures. The changes which are now being made should result in a more efficient and economical recording of the financial transactions of the State and should tend in a great measure to prevent other situations arising such as the one now being dealt with.

(6) The investigation which Ernst and Ernst have made into every department of the State has stimulated the interest of the department heads and should result in much closer cooperation.

(7) This has been the result of engaging competent outside accountants and not restricting the scope of their work in any way.

Treasury Department

It is an extremely distasteful assignment, yet I feel it clearly my duty to report to you the reasons that compelled me, on the afternoon of April 17, to telephone Mr. Belmont Smith, the State Treasurer, and request that he come to the Executive Department. Assembled there were five members of the Executive Council: Councilors Fernandez, Parsons, Schnurle, Flanders, Weston, and the Attorney General. In the presence of and with the approval of the entire group, I requested Mr. Smith's resignation, based largely at that moment on what I considered to be his statutory responsibility for the acts of his Deputy in improperly disbursing cash to the extent of over \$32,000 during the past three years. Mr. Smith disclaimed any knowledge of the acts of his Deputy and refused to resign.

The report of Ernst and Ernst will disclose to you, in addition to this fact, that:

(1) No attempt was ever made to reconcile the principal bank account of the State for a period from 1932 to 1938, although it appears that there was an unreconciled amount of \$17,950.89 in favor of the State.

(2) The failure of the Treasurer to report delinquent tax assessments on railroad properties (see schedules on pages 52 and 53 of complete report) to the Attorney General, which has resulted in loss of revenue to the State since 1930.

(3) The failure of the Treasurer to report delinquent bank assessments (see exhibit schedules on pages 54 and 55 of complete report)

to the Attorney General, which has resulted in a loss of revenue to the State amounting to \$71,742.94, due the State since 1932 and 1933. The complete recovery to the State is somewhat doubtful now as some of the banks are in final liquidation by order of the Court. This means that some future Legislature must write the loss off in order to clear the Treasurer's records.

(4) The books of the Treasurer show protested checks (see page 4 of complete report) in the amount of \$6,219.32, dating from 1933 to date, carried as "cash on deposit." There is little or no value to these items, yet the practice was carried on.

(5) The careless handling of negotiable securities offered meager protection to the State and should have been protested by the Auditor years ago. The bonds and negotiable securities are now under dual control in the vaults of the local banks.

(6) The method of recording income made possible the large defalcation which has occurred. This has now been overcome by the adoption of the suggestions advanced by Ernst and Ernst.

This constitutes my formal report to you, covering this Department. The responsibility of the decision now rests with you.

Auburn Registration Office

On January 24, 1940, the News carried further misleading headlines purporting to furnish evidence of a shortage of \$35,000 missing before the burglary took place. Ernst and Ernst were directed to review especially the auditing records previously reported to you, and I invite your attention to their analysis appearing on page 14 of their completed report and their conclusions that there could have been on hand an amount in undeposited collections approximating the amount of money reported stolen in February, 1938.

The accompanying front page editorial in the paper, under date of January 24, states that the News has spent a sum of money running into four figures trying to solve the Auburn robbery and had employed Mr. George Breach, of Boston, and Mr. Eugene Cloutier, of Auburn. What these two gentlemen have discovered, if anything, I have no way of knowing, but once more, may I not say to either of these two men, or to their employers, or to any

other citizen of Maine, that they can perform no better public service than to communicate any information that they may have, either real or imaginary, to the Attorney General, to the Chief of the State Police, or to any sheriff or county attorney in the State of Maine. Our reward still stands and we desire such information as they may be able to give.

Summary

If I were to try to ascribe the reason for our present condition, I believe I would attribute it to a combination of at least four circumstances:

(1) Rather complete failure of the supposedly post-auditing department as provided in the Code. It has not functioned properly at any time since it was established in 1932.

(2) Lack of supervision of the Controller by the Commissioner of Finance as prescribed by the law, since the creation of the bureau, and the self-assumed or unauthorized authority of the Controller for the past eight years.

(3) Proper internal safeguards were not maintained in the Treasurer's office. This made possible the irregular disbursement of cash periodically ever since 1934.

(4) A highly-regarded official for the past ten years at least, who turns out to be an alleged dishonest official during that period of time.

State Auditor

If you will refer to page 700 of the 1937 Laws, you will read the reference to the Department of Audit in my first inaugural message. I read as follows:

"Under Chapter 216, of the Public Laws of 1931, the State Auditor is directed to conduct a continuous post audit of accounts and transactions of departments and agencies of the State government. This provision of law has not been complied with because of lack of sufficient appropriation and personnel.

"The pre-audit of payments is constantly maintained by the State Controller, but it would seem advisable to either provide the Auditor with the staff to perform the expressed duties as prescribed by law, or else amend

the law. I do not believe the law should be amended in this respect.

"The law, however, should be amended to provide to various cities and towns a closer audit than is now possible.

"Your attention is invited to the seventeenth report of the Department of Audit, which is readily available."

That statement is as true now as it was then. I urge you, for future protection, not to take this lightly.

The seventeenth report, which was just referred to, dated October 1, 1936, begins as follows:

"STATE OF MAINE DEPARTMENT OF AUDIT

Augusta, October 1, 1936.

"Herewith is submitted my annual report of audits conducted by this department during the fiscal year July 1, 1935, to June 30, 1936. The authority of law for this report is found in Chapter 216, Article VI, Section 4, Public Laws of 1931, which provides:

"The State Auditor shall keep no accounts in the Department of Audit, but he shall conduct a continuous post audit of the accounts, books, records and other evidences of financial transactions kept in the Department of Finance, or in the other departments and agencies of the State Government. He shall prepare and publish a report, setting forth the essential facts of such audit in summary form, within two months after the close of each fiscal year. If he shall find in the course of his audit evidences of improper transactions, or of incompetence in keeping accounts or handling funds, or of any other improper practice of financial administration, he shall report the same to the Governor immediately; if he shall find evidences of illegal transactions, he shall forthwith report such transactions both to the Governor and the Attorney General. All such evidences shall be included in the annual reports of the State Auditor, and he may, at his discretion, make them public at any time during the fiscal year."

Mr. Hayford then continued as follows:

"As stated in previous reports, it is impossible, with the

appropriation granted by the Legislature to this Department, to perform but a small part of the audits required by the above cited statute. We have audited the various agencies of Government so far as the appropriation of \$21,000 has permitted. Of this amount some \$3,000 to \$5,000 is earned by the Department in its audits of municipalities under the terms of Chapter 5, Sections 97-103, Revised Statutes."

I am advised by Mr. Hayes that the Audit Department, which, mind you, was established as a post-audit department, made out and collected its own bills for municipal auditing and at the present time the books in this Department show about \$8,000 due from various cities and towns. In my judgment, the municipal work should continue, but the Department should not collect or handle the revenue due for such services.

The budget request of the Audit Department last year was \$27,000 per year. The Budget Committee recommended \$25,000 per year and the Legislature approved \$20,000 each year, a decrease of \$7,000 from the appropriation granted by the Eighty-eighth Legislature.

Mr. Hayes, now acting as State Auditor, has not only filed estimates with me but coupled with these is a request that I transmit them to you at this session. It calls for a total appropriation of \$53,000 per year, or an additional appropriation on your part of \$30,000.

For your alternative consideration you might consider the provision of an annual or possibly a biennial outside independent audit. Using as a basis or starting point the analysis of Ernst and Ernst, you may consider it a prudent investment.

I agree with Mr. Hayes that you should amend existing laws to remove the State Auditor from his membership on various commissions, such as Farm Lands Loan Commission, Emergency Municipal Finance Board, etc. I invite your reference to Section 5, of Article VI, of Chapter 216, which provides that the State Auditor shall exercise no ex officio duties.

Department of Finance

The Administrative Code of 1932 established the Department of Finance by the appointment of an administrative head known as the

"Commissioner of Finance." It further established under this department three bureaus:

(a) Bureau of Accounts and Control, the head of which is the State Controller.

(b) Bureau of Purchases, the head of which is the State Purchasing Agent.

(c) Bureau of Taxation, the head of which is the State Tax Assessor.

It then provides that the head of the Department (in this case, the Commissioner of Finance) may employ such bureau chiefs, deputies, and employees as may be necessary, and further that such bureau chiefs, deputies, employees, etc., shall be under the immediate supervision, direction, and control of the head of the Department and perform such duties as the head of the Department (meaning the Commissioner of Finance) may prescribe.

When the Code was then established, Mr. W. S. Owen was appointed as Commissioner of Finance and continued to hold this appointment until April 17, 1940, and under the terms of the law he was required to designate, subject to the approval of the Governor and Council, the Controller, Purchasing Agent, and Tax Assessor, to direct and supervise their three bureaus.

Shortly thereafter, the State suffered a loss in the death of Captain Tobey, who was the original State Purchasing Agent. Then we find what now seems peculiar, inasmuch as under the law it was legally necessary for Mr. Owen, as Commissioner of Finance, to appoint Mr. Owen as Purchasing Agent, and at the same time and thereafter supervise and prescribe the duties that Mr. Owen, the Finance Commissioner, would expect Mr. Owen, the Purchasing Agent, to follow. Mr. Owen's salary was always paid as Commissioner of Finance and not as Purchasing Agent.

However, I might add, from my observation, the belief that Mr. Owen was a very satisfactory Purchasing Agent.

It is quite evident that the specific duties of the Commissioner of Finance need to be more clearly defined. There appears to be no present provision in the Code Law whereby a bureau head, or a deputy, as the case may be, has the statutory authority to transact departmental business in the case of a vacancy in the head of the depart-

ment for any cause. I regard it as very necessary that such authority be provided, at least, until a successor can be appointed and qualified.

In the Bureau of Purchases, I believe it would be advisable to include such purchases as are now being made independently in the Highway Department. I do not see the logic of making any exemptions for the Highway Department.

Chapter 220, of the Laws of 1939, revised the method of providing transportation for necessary State automobile travel. That law has been complied with and the result has been the elimination to date of 127 cars at the Departmental Garage.

In considering such amendments as you regard appropriate, may I make a suggestion? Honorable William H. Deering has served as Budget Officer since 1932, and in addition, for the past six years, half of his time has been spent acting as steward and treasurer of the Augusta State Hospital. The latter position amply justifies full-time supervision, but added to that, he has served ex officio as a member of the Personnel Board, and during legislative sessions, has acted as clerk to the Appropriations Committee. He has informed me that he does not feel able to continue to carry on all of his present responsibilities indefinitely and prefers to confine his efforts to his hospital duties. I therefore suggest that you consider amending the law so that the Commissioner of Finance shall also assume the responsibility of the preparation of the budget. That ought to enable the selection of a trained accountant and afford a commensurate salary for such an important official.

A substantial saving could be accomplished in the expense of the Controller's office if all salaried employees of the State were paid on a bi-weekly basis instead of on a weekly basis. That saving has been estimated at \$20,000 per year, and it would seem possible to me to add further savings by the elimination of some machinery rentals which the State assumes each month.

As I further study the Code, I am not impressed with any possible advantage or economies by grouping the Library and Museum in the Department of Education. I would

recommend the separation of those two divisions from this Department, giving the Librarian a definite tenure of office and holding him responsible for the operation of the Library. It should not mean any added personnel or expense.

Relative to the Museum, under the present Code Law, in Article V, Section 1, of Chapter 216, it is merely listed as under the authority of the Department of Education. No appropriation, as far as I can determine, has ever been made available to the Commissioner of Education and since 1933 he has not exercised any supervision of the Museum.

Chapter 199, of the Laws of 1933, is a Resolve providing the sum of \$5,000 to be divided during the fiscal years of 1934 and 1935 to maintain and renovate the Museum and further provides that it should be under the control of the Department of Inland Fisheries and Game "during the period of this resolve."

The terms of that resolve now having been complied with, I recommend appropriate legislation and suggest that it should clearly be defined as a part of the Department of Inland Fisheries and Game instead of the Department of Education.

Department of Health and Welfare

Chapter 223, of the Laws of 1939, amended the Code Law and established separately a Department of Institutional Service. I appointed Mr. George W. Leadbetter, an efficient State official for many years, as Commissioner of Institutional Service.

For the appointment of Commissioner of Health and Welfare, I selected, after a great deal of very careful investigation, Mr. Joel Earnest. This selection was based entirely on welfare training and experience as well as demonstrated administrative capacity rather than from the standpoint of any political consideration.

I have requested an up-to-date written report covering the pauper requirements from Commissioner Earnest, and it is so conclusive that rather than try to highlight it, I am having it included in this message in its entirety so that all of you may study it. I commend it to you for careful analysis:

"May 17, 1940.

"To: Governor Barrows.

Subject: State Pauper Account.
 "As you know, the State pauper account in the Department of Health and Welfare will be overdrawn by the end of the current fiscal year. Neither Mr. Rodgers, Mr. Deering, nor myself are yet in a position to give you a statement of the amount to which this overdraft will reach, but there is no question but that it will be large.

"The question of how this present overdraft is to be met is somewhat beyond the realm and function of this Department, but the collateral question of how much money is needed in the future for the proper operation of the pauper account is something with which this Department is vitally concerned.

"This question has already been asked me a number of times and I have had to answer, 'I do not know and I do not think anyone else in the State of Maine knows at the present time.' Before anyone can predict the future costs of the State paupers, it is necessary to have from the towns and cities a great deal more information about the nature and the character of the relief load than is now available. It is my personal belief that given proper information about this case load and sufficient legislative authority to audit the towns' handling of these cases, savings can be made. This belief is founded on certain concrete evidence. I have already mentioned to you specific instances wherein towns and cities are placing an admittedly unfair proportion of the costs of medical care upon the State. For the State as a whole the following figures pose some very interesting questions. These figures are compiled by Mr. Brown of this Department from monthly figures he has been receiving from the towns, plantations, and cities. They represent completely voluntary reports which all the towns and cities of the State, with the exception of about eighteen of the smaller towns, have been making to this Department. The figures shown are for March of 1940 and are reasonably typical of any month.

State: Total number of cases, 2,447; family cases, 1,998; single cases, 449; average number persons in family, 4.82.

Town: Total number of cases,

8,346; family cases, 6,634; single cases, 1,712; average number persons in family, 4.57.

State: Average cost per case all expenditures, \$31.31; average cost per case (Excl. medical, hospital, burial) \$27.23; average cost per case for medical, hospital, burial, \$4.08; average cost per person all expenditures, \$7.60.

Town: Average cost per case all expenditures, \$24.59; average cost per case (Excl. medical, hospital, burial) \$21.11; average cost per case for medical, hospital, burial, \$3.48; average cost per person all expenditures, \$6.41.

"The above figures on State cases refer only to cases handled by the towns and cities and on which the State reimburses the towns and cities. They do not include the Emergency Aid cases nor the families or boarding care cases handled directly by the State in and around Augusta. In other words, these figures are what the towns themselves report they spend on their own cases and on the State cases.

"The average number of people in these cases as between Town and State are very close. Yet the average cost per case for State cases is \$31.31 and for a Town case \$24.59, or a difference of \$6.72 a month. The difference in average cost per case for medical care and burials per month is 60c, and the difference in average cost per person is that the towns spend \$1.19 more per person on State cases.

"AT THIS POINT IT IS NECESSARY TO STATE CLEARLY THAT THESE FIGURES DO NOT NECESSARILY MEAN THE STATE CAN SAVE \$1.19 PER PERSON PER MONTH. ALL THAT THIS SHOWS IS THAT THE TOWNS SPEND MORE MONEY ON STATE CASES THAN ON TOWN CASES.

"Possibly there is too much spent on State cases. Equally possible, the towns are spending too little on their own cases. A third possibility is that the amount of relief given to both types of cases is approximately the same but that the towns are placing their own cases in the most advantageous rents, or throwing a higher proportion of available work to their own cases and therefore only need to supplement other income in a higher proportion of these cases, and possibly the towns spend more time on the investigation of their own cases.

"On the first possibility; i. e., that the State is paying too much on its own cases, Miss Waters, Nutritionist for the Bureau of Health, has prepared sample standard food budgets. These budgets are based on the findings of the United States Bureau of Home Economics, which findings were developed in cooperation with State universities over a period of many years. The United States Bureau of Home Economics has developed four food plans designed for four income levels and these food plans have been approved and are used by the University of Maine. Miss Waters has used the two lowest priced budgets of these four food plans. She has used the food plan entitled "Adequate Diet at Minimum Cost" and the food plan entitled "Restricted Diet for Emergency Use Only." The food plan "Adequate Diet at Minimum Cost" includes the least expensive foods of **each type** in amounts to promote good growth and development and maintain health at various ages and degrees of activity. The "Restricted Diet for Emergency Use Only" includes the least expensive foods of **each type** but the amounts allowed will just meet the **minimum** requirements so that a fair degree of health may be maintained for **only a short time**. Used for a longer period, poor growth and development and generally poor physical conditions will result. The term "foods of each type" means merely those foods which are necessary in order to maintain a balanced diet. The prices Miss Waters used in computing the food costs for these budgets for each age group were obtained by taking the contract food prices in three different towns in Maine. Having determined the actual food costs to meet the two food plans "Adequate Diet at Minimum Cost" and "Restricted Diet for Emergency Use Only," Miss Waters made a test by using the costs shown in these budgets as against the amount of money that is being spent for food in a group of cases selected at random which received State aid during 1939 and 1940. She found on this random group of cases that in almost all instances the amount of money presently being spent for food in individual families fell somewhere between the amounts necessary to support the adequate budget and the amounts necessary for a restricted budget.

"Limited as the number of sam-

ples are, and handicapped by the lack of information as to whether there may be other income or resources in some of these families that were used for the sample testing, the clear indications are that at least State cases are not getting too great an allowance for food. It is not possible to make any statement on rents, fuel, et cetera, as no figures are available.

Proposed Solution

"The present method of handling State paupers is roughly somewhat as follows:

"When a town has an application for assistance from an individual or a family having no settlement in that town and no obvious settlement in any other town in Maine, the overseers of the poor have the applicant fill out an affidavit which contains a description of the applicant and his family, where they were born, and where they have lived, either in or out of Maine. This affidavit is then sent to the State Department of Health and Welfare and is examined in the State pauper division where if possible the facts are corroborated by correspondence with former places of residence of the applicant or by visits to those former places of residence. If in the opinion of the State office the case has no settlement in Maine, it is accepted as a State pauper case and the town is so notified. From that point on the town handles the case almost exclusively at its own discretion and from time to time sends the bills for the support of the case in to the State for payment. The bills are usually paid originally by the town, with the exception of the State food contract bills, and the State reimburses the town treasury. The towns have been generally told to expend approximately \$1.25 per person per week for food, but beyond that there seems to be no particular direction to the town unless the town has occasion to raise specific questions about medical problems or other types of purchases. There is at no point any material sent in to the State office showing actual needs of the family or their financial situation either at the point of application or as it may change during the time the case is carried. In many instances the towns may give assistance to a case for a while and then, if assistance is no longer necessary, drop the case without notifying the State, only to pick it up

at a later time on the basis of the original acceptance by the State, and without any notice to the State that the case is again being given assistance. Under these circumstances it is impossible for the State to have any clear picture of the type of relief load that it is carrying.

"It is my feeling that the answer to the questions raised in the first part of this memorandum can only be obtained if the Department is in a position to get a great deal more information from the towns than it is now receiving, and perhaps require the towns to do a more thorough job of investigation if that is found necessary in certain instances.

"The applicant for State assistance should be required to fill out a detailed application blank, which not only shows his claims and such proof of those claims as he has concerning his settlement, but also showing his financial resources and his financial history. Accompanying this application blank should be a statement by the town officials showing they have investigated the facts set forth, both as to settlement and as to need, and found them to be correct.

"After the case has been accepted by the State, periodic reinvestigations of needs should be made by the towns and be available to the State.

"Information should be furnished from the town showing the employability of the recipients of State relief and at what types of work they are employable. A State employment index should be kept and an effort made to place these people in employment wherever possible.

"The towns should notify the State when they are no longer giving assistance in a case and when the case reapplies should give the State a new statement that the case has been re-accepted. Bills should be submitted much more promptly and the failure to submit such bills should outlaw them.

"The Department of Health and Welfare should make spot check audits on the cases carried by the towns and when it has been found that the town has been expending money without justification the State should be empowered to collect such money from the town. Uniform reporting procedures should be set up, and insofar as possible, uniform family budgets should be established.

"How many of these powers are

already lodged within the Department under the established laws and how many need new legislation, I do not know. It is a question that has apparently never been raised legally, but without some or all of these powers the State will never be in a position to say either to its citizens or to the Legislature what kind of a financial problem it faces with relation to its State paupers beyond the statement that the State has in the past expended so much money and will need at least an equal sum in the future.

"If the above information about State pauper families can be obtained, the State Department of Health and Welfare will, fortunately, soon be in a position to make accurate tabulations and analyses of the information. Under the terms of our Agreement with the Children's Bureau in Washington we are, as you know, allowed to employ at their expense a full-time statistician and financial officer. As soon as an adequate person can be found for this position we expect to establish a central index and uniform statistical and recording procedures. This new service to be established would, of course, collect, study, and report on the State pauper material with the result that after a reasonable time to establish our procedures and begin collecting our information, the Department will be in a position to give reasonably definite answers as to what type of care is being given to State paupers and what the probable costs of such care would be.

(Signed) JOEL EARNEST,
Commissioner of Health
and Welfare."

Departmental Collections

The responsibility of a centralized unit for the collection of obligations due the State has long been a matter of concern. The Code Law apparently did not make any provisions for such requirements and neither is it discussed in the original survey report that I can find. However, the audit of Ernst and Ernst has disclosed a fundamental weakness in our governmental structure that should have your consideration.

Taxes are assessed, statements are issued and delinquent payments are then not always followed up. The result, over the years, is that the charges accumulate and the State loses the money. Or, in some cases, new taxation may be neces-

sary in order to carry on the activities to which we are committed. It spells poor management, in other words.

If you decide that such a central department is unnecessary, then you might consider legislation requiring all accounts receivable to be reported regularly to the Treasurer's office and tabulated therein, with the further requirement that the Treasurer report such delinquent items to the Attorney General's office for collection after stated periods. Some such procedure would save the State many thousands of dollars each year and in my judgment it would be a fine investment.

State Liquor Commission

Chapter 300 of the Public Laws of 1933, enacted at the special session of November 6, 1934, was approved November 10, 1934. This act provided that the sum of \$250,000 should be made available from general revenue of the State for inventory purposes. It further provided that for a period of five years the sum of \$50,000 should be deducted each year from the gross receipts and returned to the State Treasury for reimbursement of the sum of \$250,000 hereinbefore mentioned.

Chapter 300 was amended by Chapter 24 of the Laws of 1935. The amendment, in effect, made available for inventory purposes, in addition to the \$250,000, the profits for the first six months' business which was approximately \$365,000.

The State Treasury did not make a cash payment of any part of the original \$250,000 and, therefore, has never been reimbursed for any part of that amount. Apparently, it amounted to merely the authority to utilize any available treasury funds up to \$250,000 for a working capital and maintaining the State liquor business.

As time went on, and more stores were opened from 1935 to 1937, additional funds were required. The inventory figure has varied in different years from \$475,000 to \$912,000, the peak year of 1936.

The cost of liquor purchased was shown on the books as a "cost of operation of State government." This is not correct because the State is literally in the business of buying and selling liquor for a profit.

On June 30, 1939, the balance sheet of the Commission, as shown on page 56 of the report of Ernst and Ernst, indicated an inventory of \$629,898 of which amount \$336,-

059 properly belonged to general State funds.

It has been stated to me that the amount of \$336,059 cannot be restored to general funds as provided by existing law. The reason advanced is because it would deplete the inventory declared necessary to adequately transact the business that the State is engaged in. Furthermore, with a smaller working capital the Commission would be unable to purchase their supplies to the maximum advantage to the State.

If it should be conceded that \$629,898 is the amount that is necessarily required for purposes of inventory, then some other plan ought to be devised.

I suggest that you consider the creation of a State-owned corporation with the three Commissioners as the officers of the corporation. This would be designed to replace the present State Liquor Commission. The State-owned corporation should be given authority to make loans to finance the liquor they purchase, utilizing their inventory of stock on hand for collateral security, exactly as a private corporation might do. The effect of this plan would be to restore to general funds of the State \$336,059 which the Department now uses.

From such inquiry as I have made in Washington, I am satisfied that such action is legal and that a law can be enacted that would not require either social security, income, capital stock tax, or excess profits tax payments on the part of this State.

I recommend your consideration of this suggestion.

National Guard

Every citizen of Maine is justly proud of the glorious record of our various National Guard units. I am glad to reflect the progress that has been made in the past three years by the erection of store sheds and a modern Adjutant General's building at Camp Keyes in Augusta. In addition, there has been the erection of one armory during each of the past three years. This is, however, only a start and much more needs to be accomplished before we have adequate training facilities in our various armories.

Much activity is apparent of late in the development of aviation, not only in a commercial way but also in military circles. And who is there among us who will not agree that conditions abroad are becom-

ing more acute daily? What the future holds in store for us is merely conjecture.

I am decidedly an aviation enthusiast but not a pilot in any sense of the word. For this reason, I directed Adjutant General Hanson, in 1939, to visit personally the War Department in Washington and report to me the minimum requirements for a National Guard Aviation unit in Maine. I have a written report from General Hanson, dated November 2, 1939, stating that the minimum requirements of the Federal National Guard Bureau were:

(1) A field with at least two runways 4,000 feet long.

(2) Either the State or the Federal Government would require the exclusive control of the field for a period of at least twenty years.

(3) The initial cost of installation of hangars, machine shops, warehouses, etc., would involve an expenditure of \$250,000 of State funds.

(4) Average yearly maintenance cost to the State would be \$30,000.

(5) Only cities with a population of at least 50,000 would be considered.

(6) The Federal Government would supply the airplanes and field equipment and the payroll of the required staff would amount to approximately \$50,000 per year. In order to further check on the details, I addressed an inquiry to National Guard Bureau in Washington, setting forth the salient points. On November 22, 1939, Major General Albert H. Blanding, Chief, National Guard Bureau, replied to me as follows:

"Your information concerning the responsibilities of a state in connection with the establishment of a new National Guard Observation Squadron is substantially correct."

Frankly, I did not take further action at that time because I could not find any way for the State to finance the requirements of the Federal Government.

However, as time went on, I felt that possibly there might be some modification of the minimum requirements, so on March 23, 1940, I addressed another inquiry to Major General John F. Williams, the present Chief of the National Guard Bureau. General Williams

replied to me, under date of March 25, 1940, in part as follows:

"You are advised that the requirements for a National Guard Squadron, as given in a letter to you from General Blanding, dated November 22, have not been lowered in any respect."

The accuracy of these figures have been challenged at different times. While I make no guarantee as to the accuracy of the figures, I have given you my source of authority. If this Legislature will provide the money, I should be happy to sign the formal required application for such a unit, but unless you do, it would seem to me to be an empty gesture to merely sign and certify a request to the National Guard Bureau that Maine is ready to fulfill its part.

Voicing my personal opinion, the entire world is more or less of a volcano at the present moment and alarming events are occurring hourly. It is folly to argue that we are immune and not a minute should be lost in making adequate preparations.

The defense problems of the State of Maine are more important than the problems of a majority of all the other states and this fact should be recognized by the Federal Government.

I favor meeting adequate defense requirements, of course, and this includes aviation. So again I say that if this Legislature will provide the money, I will sign an application for a National Guard Aviation unit in five minutes and will then request our delegation in Washington to obtain immediate approval from the Federal agency.

Furthermore, I urge your favorable consideration.

Departmental Overdrafts

You are aware, no doubt, of the current overdraft in appropriation balances, largely in the Department of Health and Welfare.

It is carefully estimated that an amount of \$609,244 is needed in this Department in order to balance the appropriation to the end of the fiscal year, ending June 30, 1940.

You should review carefully the following tabulation prepared by the Budget Officer, showing also the estimated revenue increases and the estimated revenue losses.

It indicates from all sources that there is an estimated cash deficiency from present general fund sources of \$191,244 that is required to the end of the present fiscal year.

APPROPRIATION OVERDRAFTS AND OTHER EXPENSES REQUIRING DEFICIENCY APPROPRIATIONS		
Health and Welfare		
Pauper Account		
Expenditures to April 30, 1940	\$1,082,749.28	
Less Appropriation and Receipts	<u>815,099.14</u>	
Overdraft April 30, 1940		\$267,650.14
Estimated expenses May and June at \$115,000 per month		<u>230,000.00</u>
Estimated appropriation overdraft for year		\$497,650.14
Administrative Account		
Expenditures to April 30, 1940	\$ 366,594.22	
Less Appropriation	<u>320,000.00</u>	
Overdraft April 30, 1940		\$ 46,594.22
Estimated Costs May and June at \$36,000 per month		<u>72,000.00</u>
		\$118,594.22
Less Credits from Old Age Account		<u>30,000.00</u>
Estimated Appropriation Overdraft for year ending June 30, 1940		88,594.22
Estimated Surplus Commodity Distribution Overdraft June 30 1940		8,000.00
Estimated Emergency Aid Overdraft June 30, 1940 ..		<u>15,000.00</u>
Health and Welfare—Estimated Overdraft		\$609,244.36
Additional Appropriations Needed		
Adjutant General (Detail on file with Budget Officer) ..		18,000.00
Estimate to May 11, 1940—Ernst and Ernst Expenses of Audit of State Books ..		<u>45,000.00</u>
Total Estimated Deficiency Account Requiring Appropriations		\$672,244.36

**CHANGES IN REVENUE ESTIMATES OF JANUARY 1939 FOR YEAR
ENDING JUNE 30, 1940
TOTAL ESTIMATED DEFICIENCY ACCOUNT REQUIRING
APPROPRIATIONS**

Increases in receipts over estimates January 1939		\$672,244.36
Profits from Maine State Liquor Commission—Estimated ...	\$250,000.00	
Inheritance Tax Collections—Estimated	75,000.00	
Railroad Taxes—Actual	<u>121,000.00</u>	
Gross Estimated Increase		\$446,000.00
Revenue Losses as compared to estimates January 1939		
Net receipts—Automobile Title Law Estimated Loss	40,000.00	
Institutional Collections—Estimated Loss	<u>75,000.00</u>	<u>115,000.00</u>
Estimated available funds to apply against Deficiency Appropriation		\$331,000.00
Estimated Cash Deficiency from present General Fund Sources		\$341,244.36
Available from Contingent Fund		<u>150,000.00</u>
Net Cash Deficiency ..		\$191,244.36

You and I were elected in 1938 upon a party platform pledge that declared among other things against the "levy of new taxes." Let me emphasize here that the present situation does not now call for new taxes.

Remember that you are indeed fortunate that the condition of the sinking fund reserve is such that it can absorb this amount with safety, if you so choose.

Thus you will observe that I have presented at least two suggestions, either of which obviates the necessity of your consideration of any new tax measures at this time.

Conclusion

I appreciate your patience and close attention to what was termed at the outset an extraordinary or unusual message. I realize that the majority of you have come here today at some sacrifice to your regular vocation, yet deeply sensitive to your obligations as public officials. I further realize that many of you are candidates for political office in the June primary and quite naturally your mind may at times wander in that direction.

I share some of those same thoughts myself, but let me tell you that since April 8, the first moment I heard of this situation, I have not made a single public appearance in or out of Augusta. I have felt that this condition, which I have inherited as Governor, and which I deplore as any decent citizen does, demanded my undivided attention. It has had that attention. You have been assembled here today as quickly as it has been humanly possible to present a concrete report to you. I am satisfied that whether you and I irrespective of party, merit any further political endorsement entirely depends on our firm and resolute action at this juncture.

Several bills have been drafted by the Attorney General for your early consideration, if you desire them. None of them are so-called "must bills" and will not be presented unless you request them. For my part, I shall not attempt to intrude further, but I pledge whatever assistance I may be to you in your deliberations, night and day, if necessary. Even if it means from now until after the coming primary election, you may depend on my undivided support. In addition, Mr. Wilkinson, a resident partner of the firm of Ernst and Ernst, and Mr. Noon, the Manager of the Maine of-

fice, will be available to appear before any committee or group of legislators to explain such phases of their report as you might desire.

I suggest that it might be decidedly helpful, if during your deliberations, you resolved yourself into a joint committee of the whole and then invited the representatives of Ernst and Ernst to discuss their complete report with you. They are here to serve you if you so desire.

Out of the events of the past month and a half, the State has received a great deal of publicity. Some of it has been accurate but a vast amount of it has been simply speculation.

We are slowly emerging with the positive assurance that the finances of the State are in a stronger position than we realized. On May 1, 1940, we had cash on hand and in the banks to the amount of \$4,945,-964.66.

Without question the fact that we are in such a strong position is due, in no small degree, to the devoted service, honest and sincere efforts of the men and women who comprise the State personnel. For that service they should have the approbation of the people of Maine and may I not be the first one to say "thank you."

Members of the Eighty-ninth Legislature, into your hands I now place the welfare of the State of Maine. I have a wholesome respect for and unbounded confidence in your ability to accomplish your high objectives.

May you be successful in your efforts.

Respectfully submitted,

LEWIS O. BARROWS,

Governor.

Governor Barrows, accompanied by the Executive Council, then retired, amid the applause of the convention, the audience rising.

The CHAIRMAN: The Convention will be in order.

The next business to come before the Convention is the confirmation or election of a State Auditor.

Senator Hill of Cumberland, then presented the following order and moved its passage:

ORDERED, that the appointment of William B. Hayes of Bangor, as State Auditor, made by the President of the Senate to fill the vacancy in said office which occurred

when the Legislature was not in session, be and hereby is confirmed under the provisions of Section 1, Article 6 of Chapter 216 of the Public Laws of 1931.

The order received passage.

Thereupon, the purposes for which the Convention was assembled having been accomplished, the Convention was dissolved and the Senate retired to its chamber, amid the applause of the House, the members rising.

IN THE HOUSE

The Speaker in the Chair.

The SPEAKER: The Chair will remind the members at this time that the House is proceeding under the rules of order adopted at the first session of our regular session in January, 1939.

Mr. VARNEY of Berwick: Mr. Speaker, I move that the rules be suspended in order to permit me to present an Order, out of order.

The SPEAKER: The gentleman from Berwick, Mr. Varney, moves that the rules be suspended to permit the introduction of an Order, out of order.

The motion prevailed.

Mr. VARNEY: Mr. Speaker, in presenting this Order at this time, it is merely my desire to have it read before this House, after which I propose to move to have it lie on the table until the afternoon recess, in order that the members may look it over.

The SPEAKER: The gentleman from Berwick, Mr. Varney, presents an Order. The Clerk will read the Order.

ORDERED, the Senate concurring, that there be, and hereby is, created a joint committee to consist of seven on the part of the House with such as the Senate may join. Said committee shall be charged with the duty of studying the report of Ernst and Ernst, Auditors, and authorized to conduct or cause to be conducted a study of the financial and functional activities of each and every state department, to determine whether or not state laws are being compiled with and what, if any, legislation may be advisable to promote effective administration of state laws and avoidance of duplicated functions.

Said committee is hereby authorized and empowered to employ counsel, investigators and agents, subpoena witnesses and require the production of books, papers, documents, records and other evidence and said committee may direct the issuing of subpoenas for the attendance of such witnesses and the production of such documents, and designate one of its members to issue such subpoenas. All state officials and their departmental subordinates and employees having in their possession or custody such books, records, or papers pertaining to the business of the state shall make the same available for inspection to the committee, its counsel or its authorized investigators or agents at all reasonable times upon reasonable notice.

Said committee is hereby authorized to sit while either branch of the legislature is in session or during any recess of this special session or after final adjournment of this special session and may make such reports as it shall deem expedient to this or any other special session of the 89th legislature or may file such reports with the Clerk of the House when the legislature is not in session; together with any bill or bills for proper remedial legislation, which bill or bills, if the legislature is then in session, shall be received regardless of any cloture rule or order then in effect.

All expenses incurred by said committee in the discharge of its duties and reasonable expenses of its members shall be paid from the appropriation for the legislative department upon vouchers approved by the Committee on Appropriations and Financial Affairs.

On motion by Mr. Varney, tabled until afternoon session, pending passage.

The SPEAKER: The Chair will direct the Clerk at this time to read the roll of absentees.

Roll of absentees read by the Clerk.

The SPEAKER: The Chair will report to the House that the corrected roll indicates the presence of 138 members with two absentees.

On motion by Mr. Varney of Berwick,

Adjourned until three o'clock this afternoon.

After Recess—3 P. M.

The House was called to order by the Speaker.

Mr. PAUL of Portland: Mr. Speaker, out of order and under suspension of the rules, I have a matter I would like to take up.

It is hardly possible to have served in this body in the early winter of 1939 with the gentleman from Cumberland, whom we all learned to love without recognizing his unquestionable ability and integrity, and it was our misfortune to have lost John T. Gyger on the first day of June, 1939. Now, Mr. Speaker, I would like to offer a memorial.

The SPEAKER: The gentleman from Portland, Mr. Paul, moves that the rules be suspended to permit the introduction of a memorial out of order.

The motion prevailed, and the following resolution was received:

WHEREAS the members of the House of Representatives of the 89th Legislature learned with profound sorrow of the untimely death on June 1, 1939, of an esteemed colleague, Hon. John T. Gyger, Representative from Cumberland, and

WHEREAS in his associations with the members of this House and the members of the House of the 88th Legislature, he was ever honorable, forceful and kindly, and highly regarded for his character and sterling qualities of mind and heart, and

WHEREAS the members of the House of Representatives feel in his passing a great personal loss and a genuine grief,

NOW THEREFORE, BE IT RESOLVED that the State of Maine mourns the loss of a faithful and valued public servant, and the members of the House of Representatives lament the departure of an esteemed and trusted friend, and

BE IT FURTHER RESOLVED that a copy of this resolution be entered in the Journal of the House and a copy transmitted to the widow of the deceased.

The resolution was read and adopted by a unanimous rising vote of the House.

Mr. HINMAN of Skowhegan: Mr. Speaker and members of the House: I think what the gentleman from Portland, Mr. Paul, has said about the gentleman from Cumberland,

Mr. Gyger, applies to the case of the Honorable gentleman from Madison, Mr. James H. Thorne, and I offer a resolution, and move its adoption.

The following resolution was received, out of order and under suspension of the rules:

WHEREAS the members of the House of Representatives of the 89th Legislature learned with profound sorrow of the untimely death on May 31, 1939 of an esteemed colleague, Hon. James H. Thorne, Representative from Madison, and

WHEREAS in his associations with the members of this House and the members of the House of the 88th Legislature, he was ever honorable, forceful and kindly, and highly regarded for his character and sterling qualities of mind and heart, and

WHEREAS the members of the House of Representatives feel in his passing a great personal loss and a genuine grief,

NOW THEREFORE, BE IT RESOLVED that the State of Maine mourns the loss of a faithful and valued public servant, and the members of the House of Representatives lament the departure of an esteemed and trusted friend, and

BE IT FURTHER RESOLVED that a copy of this resolution be entered in the Journal of the House and a copy transmitted to the widow of the deceased.

The resolution was read and adopted by a unanimous rising vote of the House.

Mr. LAMBERT of Lewiston: Mr. Speaker and members of the House: I have a similar resolution to offer on the death of our beloved colleague, Napoleon H. Hamel of Lewiston. He served in this House three terms, and was always well liked by everyone. What the previous speakers have said as to the fine qualities of the other two members who served in this House could also be applied to Mr. Hamel. I offer this resolution and move its adoption.

Thereupon, the following resolution was received, out of order and under suspension of the rules:

WHEREAS the members of the House of Representatives of the 89th Legislature were informed with great sorrow of the untimely death on March 21, 1940, of our esteemed colleague, Hon. Napoleon H. Hamel, Representative of Lewiston, and

WHEREAS in his associations with members of this House and members of the 86th and 88th Legislatures, he was ever honorable, kind and of sterling character and fine qualities of mind and heart, and

WHEREAS the members of the House of Representatives feel that his passing was a great loss and real grief,

NOW THEREFORE, BE IT RESOLVED that the State of Maine mourns the loss of a faithful and valued public servant and the members of the House of Representatives are deeply sorrowful at the departure of an esteemed and trusted friend, and

BE IT FURTHER RESOLVED that a copy of this resolution be entered in the Journal of the House and a copy transmitted to the family of the deceased.

The resolution was read and adopted by a unanimous rising vote of the House.

Papers from the Senate, received out of order and under suspension of the rules:

From the Senate:

ORDERED, the House concurring, that five thousand copies of the Governor's message be printed (S. P. 705).

Comes from the Senate, read and passed.

In the House, read and passed in concurrence.

From the Senate:

ORDERED, the House concurring, that the Superintendent of Buildings is hereby given charge of all assignments of rooms for hearings in the Capitol Building, and that all applications for rooms for hearings must be made to him in writing (S. P. 706).

Comes from the Senate, read and passed.

In the House, read and passed in concurrence.

Orders

On motion by Mr. McLaughlin of Portland, it was

ORDERED, that Mr. LaFleur of Portland, be excused from attendance because of military service in the regular army, and that Mr. Fogg of Cornville, be excused because of failure to receive his notice because of his absence from home.

Orders of The Day

On motion by Mr. Varney of Berwick, the following Bill was received, out of order and under suspension of the rules:

Bill "An Act Enlarging the Powers and Duties of the State Auditor" (H. P. 2256)

Mr. VARNEY: Mr. Speaker, I will say that this is an Act enlarging the powers and duties of the State Auditor, and, generally speaking, enlarges his duties to cover the power to audit Clerks of the Superior Court, Judges and Records of the Municipal Courts, Trial Justices, State Normal Schools and Port of Portland Authority.

The Bill was referred to the Committee on Judiciary, 500 copies ordered printed and sent up for concurrence.

On motion by Mr. Varney of Berwick, the following Bill was received, out of order and under suspension of the rules:

Bill "An Act Repealing the Law Requiring Guaranty of Titles of Motor Vehicles" (H. P. 2257)

The Bill was referred to the Committee on Motor Vehicles, 1,000 copies ordered printed and sent up for concurrence.

Mr. Varney of Berwick, then presented the following Bill, out of order and under suspension of the rules:

Bill "An Act Amending the Farm Lands Loan Act" (H. P. 2255)

Mr. VARNEY: Mr. Speaker, I will say that this bill pertains to the removal of the State Auditor as Secretary of the Maine Farm Land Board.

Thereupon, the Bill was received and referred to the Committee on Judiciary, 500 copies ordered printed and sent up for concurrence.

On motion by Mr. Varney of Berwick, the three foregoing bills were ordered sent forthwith to the Senate.

On motion by Mr. Varney of Berwick, the House voted to take from the table the Order tabled by that gentleman earlier in today's session.

Mr. VARNEY: Mr. Speaker, upon first receiving notice of the apparent financial situation and the probable necessity for a special ses-

sion of the Legislature, it occurred to me that this matter involved all of the people of the State of Maine to such an extent that all of the members of this House should certainly and would certainly be willing to discard any political differences which we may have had in the past for the sake of straightening out our affairs. It became apparent to me that in order for the Legislature to meet and consider these matters someone had to assume the responsibility of getting before this body such matters as we might desire to consider here. I did not think it proper for me to turn to the Republican steering committee of this House for advice on how to proceed. I did not think it was my personal duty to have any advanced information concerning the affairs of the State which all of the other citizens of the State of Maine and members of this House could not get. I made no effort, therefore, to call any meeting of members of this Legislature or other groups, and I made no effort to get any advanced information on the Governor's message or the auditors' report, and I can truthfully say that until this morning I had not heard or seen or discussed with the Governor any of the things contained in his message or in the auditors' report. I had discussed with the Governor and with various members of this House questions concerning procedural matters and I did draw and presented this morning the order which you now have before you on your desks. I am going to try to be brief, but I want to make a few comments concerning what I consider to be the important features of the order and invite each and every one of you to study it carefully. Do not hesitate to criticize it. It was drawn by me and is subject to such changes as this body see fit to make or to failure of passage if you decide that it is not proper that we should pass such or similar orders.

As I say, the important thought which I would like to have you keep in your minds is that this order does not set up an investigating committee with the view in mind of adjourning this Legislature and going home and waiting until some committee reports to us and then perhaps meeting at some later date in special session. The purpose, as I see it, of this order, is to create a committee who can go to work at

once, and by at once I mean this afternoon or this evening, if you see fit to adopt this order, not necessarily on an investigation, but go to work on setting up the machinery and bringing before this body such matters and measures as the committee of this body may decide we should and can consider tomorrow or Monday of next week, or Tuesday or Wednesday or Thursday, and for that purpose I have provided that the committee can report partially and as they see fit.

I have one other thing in mind, and that is that the committee should be a bi-partisan committee. I have discussed that feature of the committee with the Speaker of the House, and I have his assurance that if you leave it to the Speaker to select the members of the committee there will be representation of the minority party on that committee.

Since presenting the order, it has been called to my attention that I have included in these provisions a statement to the effect that the committee might file a report even after final adjournment of this special session. I may say now that I have no desire to have that left in there. Personally I know of no reason why the committee needs to file any report after the final adjournment of this special session.

It was also called to my attention that the order included the right on the part of the committee to file a report while this Legislature was in recess. I would desire to have that provision retained because it appears to me that should the committee go to work on Friday of this week and then the Legislature recesses on Saturday morning to return here Tuesday morning of next week or Monday afternoon of next week. I would like to have this committee have authority to file a report on Saturday night or early Monday morning so that you and the Legislature might have a chance to look it over before you got into actual session. I think that feature should be retained.

As to the number of members on the committee, I have no particular desire to attempt to dictate to this House how many members we put on the committee. I specified in the order seven from the House, keeping in my mind that was the usual number on a joint committee of the Legislature. My personal views would be that if you wanted to increase that number that would

meet with my approval, but to cut it down, no.

Someone suggested the possibility of having a man from each county. I would not personally object to that except that you run into certain difficulties in relation to the representation on the committee of the minority party. I think that it is important that it be a bi-partisan committee.

I would like to suggest a few of the things that I think this committee could do. Since we recessed this morning several of us have been trying to find something that we felt we could present to the Legislature, so that we could be working on it this afternoon, and I did, as you know, just recently introduce three bills and sent them on their way for consideration by this body. There are several other bills which have been drawn. Some question arose in the minds of myself and the Speaker and the others who were sitting with us this morning as to whether or not those other measures should be presented to this Legislature for consideration. I would like to have this committee, if it is appointed, meet and consider those measures which have already been drawn and decide whether or not they should be presented to you, and if that committee decides they should be, bring them in as early as possible and start them on their way. I think this committee could well, if appointed in time and they saw fit to do so, have a public hearing, if you please, or, if you care to call it that, at least a public meeting here on the floor of the House this evening, at which time the committee could notify the auditors, who I understand are here in Augusta, to appear before the committee and give such explanation of their report as they can upon questions from the members of the committee and from the public there. In other words, I think we could accomplish something this evening by having the committee in existence to meet here. I think the committee could be of material assistance in directing the drawing of any legislation which to that committee might seem proper to straighten out our financial affairs, and for that reason I have included in the order the power of the committee to delegate its work to such members or other agents as they see fit. I think perhaps that fact eliminates from my

mind any objections which I may have to a larger committee on the part of the House. In other words, if the committee is a little too large to act in drawing the bills, they could well delegate the authority to prepare the bills that the committee should decide to present to one of their members or to some other person to draw it for them.

I have also included in the order the power of the committee to have access to all the records of the State of Maine and officials of the State of Maine, because I feel that without that power—and that is confined, at least I intended to have it confined, to power to be exercised by vote of the committee, not by any individual members without the sanction of the other members of the committee—because without that power I do not believe the committee could be of any real assistance in bringing to the attention of this House such matters as it thinks we should consider.

Now I wish you to bear in mind that this committee does not in any way intend to prevent any member of this House from introducing any bill which to him seems to be important in the straightening out of the financial affairs of the State. It does not in any way take away from the rights of any member his authority to conduct an investigation as a citizen of the State of Maine into any department he sees fit to look into. It is not an investigating committee.

It has been suggested to me that perhaps this order before passage should be referred to some other committee of this Legislature for their examination and approval or disapproval before we act upon it. With that idea I am heartily in accord and I would welcome a reference to such a committee if you think such a procedure is necessary and important. I do not want you to be hasty about selecting this committee. I would like to see it selected sensibly but without undue haste.

I have just been informed that there may be differences of opinion as to one or two other matters, I do not know just what, that I have not touched on because I do not know just what they are. After we have heard such discussion from the floor as the members of the House care to make at this time, I would prefer to have the order, if it is not referred to a committee for their consideration, remain on the table

while we could take a short recess, in order that I could check upon some other objections that are being made to it.

Mr. STARRETT of Warren: Mr. Speaker, is it in order to present an amendment to the order at this time?

The SPEAKER: Amendments to the Order are in order.

Mr. STARRETT: Mr. Speaker, I wish to present an amendment to House Paper 2254, and, after reading the amendment, I would move that it lie on the table.

The SPEAKER: The gentleman from Warren, Mr. Starrett, presents House Amendment "A" to House Paper 2254 and moves its adoption. The Clerk will read the amendment.

House Amendment "A" to House Paper 2254, Joint Order Relative to Committee for the Purpose of Making a Study of the Financial and Functional Activities of State Departments.

Amend said Order by striking out in the second and third lines thereof the following words: "of seven on the part of the House," and inserting in place thereof, the words "of eighteen on the part of the House, sixteen of whom shall represent each of the counties and shall be appointed by the Speaker on recommendation of the House members from each county, and two shall be members of the minority party to be appointed by the Speaker."

The SPEAKER: The Clerk will read the first paragraph of the Order as it would read if the amendment were adopted.

The Clerk read as follows:

ORDERED, the Senate concurring, that there be and hereby is created a Joint Committee to consist of eighteen on the part of the House, sixteen of whom shall represent each of the counties and shall be appointed by the Speaker on recommendation of the House members from each county, and two shall be members of the minority party to be appointed by the Speaker, with such as the Senate may join.

The SPEAKER: The Chair understands that the gentleman from Warren, Mr. Starrett, now moves that the amendment lie on the table. The House of course understands that the tabling of the amendment carries with it the ta-

bling of the entire order. Is this the pleasure of the House?

(Cries of No, No)

House at Ease

The SPEAKER: The Chair understands that the reason of the gentleman from Warren, Mr. Starrett, for moving that the amendment be tabled was to conform with the House Order requiring the reproducing of all amendments before they can be acted upon. The gentleman now moves that the rules be suspended to permit action on the amendment at this time.

The motion prevailed.

Mr. STARRETT: Mr. Speaker, I move the adoption of the amendment.

The SPEAKER: The pending question is on the adoption of House Amendment "A".

Mr. HINMAN of Skowhegan: Mr. Speaker, the adoption of this amendment is so closely associated with the Order itself that it would seem permissible to discuss them both at once. Is that right, Mr. Speaker?

The SPEAKER: The Chair would suggest that discussion of the amendment might be confined to the size of the committee and the manner in which it is to be chosen.

Mr. HINMAN: My argument, Mr. Speaker, is this: That the subject matter of the amendment must be discussed in order to determine or somewhat justify the number of the committee.

The SPEAKER: The gentleman may proceed.

Mr. HINMAN: Mr. Speaker and members of the House: First of all I will say I am entirely in accord with the committee. It would appear that some of his constituents are perhaps very deeply concerned, perhaps almost too deeply concerned, about the viewpoint that may have been given to us by the public five or six weeks ago. I believe that you will all agree that the case around which this order revolves is proceeding in rather an orderly fashion and that those apparent needs and requirements of several weeks ago have largely disappeared. That does not mean that we do not want a committee, but it does mean that the work of that committee has materially changed.

For instance, I think we are all in accord with the fact that the auditors' report which has been presented is sufficiently acceptable to us without any investigation. As

far as the audit goes, we have no need, as I see it, of an investigation. It is true that there will be many things resulting from the audit which will be within the scope and proper functions of the intended committee. I do not believe, considering the whole subject matter around which this order revolves, at the present time there is need of great concern about a great amount of problematical work that has to be done.

To begin with, we have a code system that was authored in its entirety back in 1930 or 1931, a code system which cost a lot of money and which was studied by the best minds that the State of Maine could procure to work upon it, and from which the State of Maine chose to pick a very small part of the subject matter. I have heard one man say that he thought we had better throw the code system down the river, as he put it. As a matter of fact, we have tried a small part of it and there are things in that part with which we have had experience which have proven to need change. That committee can properly work upon that phase of the code. Then, in all probability, we should put the code in its entirety into effect, which will require constitutional amendments and what not, and I believe that is proper work for that committee. I do not believe that there is anything revolving around this subject which requires the right to subpoena witnesses. I have no objection to this order in its entirety if the legislative bodies so choose, but it would appear to me that a much more simple form of order would meet our needs practically and get for us everything that we need.

Now that brings us to the point of how many we shall put on the committee, and, although I have no desire to deprive any man of being on that committee, it would seem to me the larger the committee the more unwieldy it is going to be, and I doubt very much if this committee can perform its work and if we are going to sit here while they are doing it. It would seem to me the proper procedure would be to refer this subject to the committee and take care of such other matters as may be proper for us to consider at this time, and that we should recess and go home subject to the call of this committee, the President of the Senate and the Speaker of the

House. Give them what time they need and they can call us when they need us. I doubt very much if this committee can cover the subject matter which has got to be handled and expedite their activities in such a way that this Legislature is going to be able to stay here with them, and although I have no desire to retard for so much as an hour the procedure of this committee and I am entirely in accord with it, I think that the labor that they have got to do has materially changed to such an extent that the number that we put on that committee should be considered as the number needed to do the work that has to be done. And, with the thought in mind that this committee may not only be working for a few days but for months—certainly if we are going to do this job we have to do, it is going to take a long time to do it—I have no objection to the sixteen members of the committee, but it does seem we are making the thing unwieldy and harder for ourselves by including any such number.

Mr. McGLAUFILIN of Portland: Mr. Speaker, this matter of the appointment of a committee of course is of vast importance to all of us. I have heard it expressed several times this afternoon by some of the members that they would like an opportunity to consider this thing a little further before its final passage, but, on this question of the proposed amendment, I would agree with the gentleman from Skowhegan. Mr. Hinman, in this particular, that the larger the body is, the more unwieldy it is likely to be. I have no particular objection to the larger committee, but I do want to say that I do not particularly approve the idea of selecting one from each county. I think this committee should be chosen because of the ability of the members of the committee to ferret out what we are trying to learn, and I do not think that that necessarily means that they should come from one county or another but it should be a selection of the best men that you can get for that purpose, and for that reason I am opposed to the idea of it being chosen by counties.

On motion by Mrs. Latno of Old Town, the rules were suspended to permit smoking in the hall of the House for the remainder of today's session.

Mr. SLEEPER of Rockland: Mr. Speaker, I wish to take up just a moment on the amendment. Coming from a small county, perhaps I am not being true to the county spirit in saying I do not think the members ought to be appointed by counties. I was very much interested when our Floor Leader stated that he hoped that this committee would not act on partisan lines. Now I will admit that perhaps in this House only one-ninth of the members are Democrats, but in the State as a whole I think the proportion of Democrats to Republicans is slightly larger, so if the committee consists of eighteen members there ought to be more than two Democratic members on it.

While I am on that subject, I think it should be stated that our average committee consists of three members on the part of the Senate seven on the part of the House, and I would say, out of courtesy to the minority party which has carried on so well during this session, that they should be entitled to two of the seven House members.

As regards the selection of the House committee, Mr. Speaker, I am not trying to flatter you, but I will say that you were elected Speaker by this House and in that election we signified to you that we had a great deal of respect for your ability and we feel you are fully qualified to select the committee and not be dictated to by the various county groups. If, however, any member of the county delegation is dissatisfied with the members, he can turn down the entire committee. But I feel, and I think the majority of the members feel, the sooner our work is under way, the better, and the committee would act a great deal easier and it would be fairer if the Speaker appointed on the committee perhaps seven members on the part of the House and at least one, if not two, members of the minority party.

Mr. SMITH of Thomaston: Mr. Speaker, I am here to represent the people, so I want to go on record as being in favor of the amendment.

Mr. MacNICHOL of Eastport: Mr. Speaker, I also came here to represent the people, even though I belong to the minority party, and I do not believe you can go to the people of the State of Maine with a committee of eighteen Republicans and two Democrats and force it upon the people of the State of Maine

—that is a bi-partisan committee. (Applause)

The SPEAKER: The question before the House is on the adoption of House Amendment "A".

Mr. ELLIS of Fairfield: Mr. Speaker, the little experience I may have had with committees leads me to certainly be in favor of a smaller committee, and I certainly should be opposed to a committee composed of eighteen members, because I think they would hinder very much the work of that committee.

The SPEAKER: Is the question clear? The question is on the adoption of House Amendment "A".

Mr. GOOD of Monticello: Mr. Speaker, like the gentleman from Thomaston, Mr. Smith, I came to represent the people. It was said to me yesterday just before I left home, "What are you going down there for? You will get down there and three or four people will have it all cut and dried and railroad it through and go back home."

Now we probably understand conditions here after listening to our Governor's speech, but we have got the people to deal with at home. They are going to ask us something when we go back. Are we going to be able to tell them anything? If we appoint a committee of six or seven, whatever it may be,—you members who have been on committees know more about it than I do, no doubt—but if seven is the proper number to have on the committee, that is all very well with me. It seemed to me that if there was a committee representing the people from every county in the State of Maine, the people would be better satisfied. Whether they would or would not, I do not know. Whether they could do better work with a large committee, I do not know, but the people are the people who sent us down here, and they are the people we represent, and the people we expect to represent to the best of our ability. I want to go on record as accepting the amendment.

Mr. LAMBERT of Lewiston: Mr. Speaker and members of the House: I want to go on record as being in favor of the amendment for a committee representing all counties. I also would like to oppose the feature of a recess and coming back later. I feel that the people of the State of Maine want everything wide open, and if there is a committee appointed, we can be right here to help them. As the honorable

Republican Floor Leader, Mr. Varney, said a few minutes ago, this is to be a non-partisan committee as much as possible, therefore I believe that everything should be done here right now and that we should stay in session until we are finished. I oppose any amendment for a recess and coming back later on. I believe we should go right through and finish our business. I think it is the right of the citizens of the State of Maine to know what is going on every minute while we are in session.

Mr. BROWN of Caribou: Mr. Speaker, while I know that a larger committee may be somewhat unwieldy, it seems to me that a larger committee can delegate to certain members of that committee certain phases of the investigation or the framing of certain laws, so that they can divide up and accomplish more work than a small committee. I think that the idea of having one member from each county is a good idea, because I know that our people back home are going to want to know what we did down here. The members of the Legislature would know better than that, but the people back home might not know it, that this thing was not railroaded through and a hand-picked committee selected for this investigation, so I am in favor of one man from each county.

Now in regard to recessing, I want to say that there are a lot of members of this Legislature who have some work to do and business to attend to at home. Of course some of the members can spend all summer here, but to the members from Aroostook County this is the most vital time of year, and at least nine members from Aroostook County had to leave their planting and come down here, so we wish to get through with it at the earliest possible moment. If this committee cannot report at once, I believe we should recess until that committee is ready to report and then come back.

Mr. DOWNS of Rome: Mr. Speaker, I simply wish to say that I heartily agree with my esteemed colleague (the gentleman from Caribou, Mr. Brown) that we all want to get home as soon as possible, but we were sent here to perform a certain task and I hope and trust we will not go home until that job is completed. I realize that a committee of the size that has been

suggested may be a trifle cumbersome, but, to say the least, it cannot be injurious, and I hope and trust that the amendment may be adopted.

The SPEAKER: The question is on the motion of the gentleman from Warren, Mr. Starrett, that House Amendment "A" be adopted. All those in favor of the adoption of House Amendment "A" will say aye; those opposed, no.

A viva voce vote being taken, the motion prevailed and House Amendment "A" was adopted.

Mr. Mills of Farmington, then offered House Amendment "B" and moved its adoption.

House Amendment "B" to House Paper 2254, Joint Order Relative to Committee for the Purpose of Making a Study of the Financial and Functional Activities of State Departments.

Amend said order by striking out in the third and fourth lines of Paragraph 3 the words "or after final adjournment of this special session," and further amend said order by striking out in the fifth line of Paragraph 3 the words "or any other."

The SPEAKER: The Clerk will read the third paragraph as the proposed House Amendment "B" would make it read.

Said committee is hereby authorized to sit while either branch of the Legislature is in session and during any recess of this special session and may make such report as it shall deem expedient to this special session of the 89th Legislature, or it may file such reports with the Clerk of the House when the Legislature is not in session, together with any bill or bills for proper remedial legislation, which bill or bills, if the Legislature is then in session, shall be received regardless of any cloture rule or order then in effect.

The SPEAKER: Under the rules of the House, the amendment will have to lie on the table until its reproduction.

Mr. MILLS: Mr. Speaker, I would like to re-offer it then under suspension of the rules.

The SPEAKER: The gentleman from Farmington, Mr. Mills, moves that the rules be suspended to avoid the necessity of reproducing House Amendment "B". Is this the pleasure of the House?

The motion prevailed.

The SPEAKER: The question be-

fore the House is on the adoption of House Amendment "B".

Mr. MILLS: Mr. Speaker, my only purpose in offering this amendment is, as the Floor Leader pointed out that there is no objection to this House staying in session without final adjournment until the work is completed. By adopting this amendment it would be possible to recess at any time to come back on our own call. I believe we were called here to do a job, and at our pleasure we can recess and come back without final adjournment. I think the whole thing should be done before we finally adjourn rather than throw it into next winter or next August or some other time.

The SPEAKER: The question before the House is on the adoption of House Amendment "B". All those in favor of the adoption of House Amendment "B" will say aye; those opposed, no.

A viva voce vote being taken, the motion prevailed and House Amendment "B" was adopted.

Mr. FARWELL of Unity: Mr. Speaker, I am sorry at this time that I am not in complete accord with the gentleman who has spoken in regard to these committees. I do not believe at this time that we should be hurried into the appointment of any committee or committees or any legislation upon a matter that is so important to the State of Maine as that which faces us at the present time. I do believe that there should be a committee appointed from this body to investigate the present financial set-up of the State, the difficulties which we have run into, and a report made to this present Legislature now or at a very near date. I do believe that a second committee should be appointed from this Legislature to study the present set-up of the State in regard to Government, and that their report should be made to the next Legislature, which sits in 1941. I do not believe that one committee as set up under this Order could perform both of these duties efficiently. I do admit that there will be a slight overlapping of functions of the two committees, but I do believe that in order to study the set-up of the present State government and offer to the next Legislature something to prevent a repetition of what has already happened to us now requires more time

than this Legislature can give at the present time.

It is my purpose at this time to offer this suggestion: That we table the present Order until such time as an Order may be drawn to amend this Order, that we have two committees, one which I shall call, for the sake of brevity, a committee to investigate the present trouble that the State is now in, and the second committee to offer to the next Legislature such things as might prevent the occurrence of this same thing again in the future.

The SPEAKER: The gentleman from Unity, Mr. Farwell, moves that House Order, as amended by House Amendments "A" and "B", lie on the table. Is this the pleasure of the House. The motion is not debatable. All those in favor of the motion that the Order, as amended, lie on the table will say aye; those opposed, no.

A viva voce vote being doubted, a division of the House was had.

Forty-four voting in the affirmative and 75 in the negative, the motion to table did not prevail.

Mr. HINMAN of Skowhegan: Mr. Speaker, I have no desire to do anything to hinder that course which the gentleman from Unity, Mr. Farwell, has suggested, and I make the motion that this Order be referred to the Committee on Judiciary, which, if satisfactory, will give him a chance to appear with others before that committee and let them bring back a recommendation as to what they feel we should have.

The SPEAKER: The gentleman from Skowhegan, Mr. Hinman, moves that the Order as amended be referred to the Committee on Judiciary. Is this the pleasure of the House?

Mr. BURGESS of Limestone: Mr. Speaker, I would like to go on record as favoring the proposition of the gentleman from Unity, Mr. Farwell. I am not entirely familiar with the proper procedure, but I would ask that a recess of fifteen minutes be taken at this time, to give someone a chance to prepare an amendment.

The SPEAKER: The Chair understands that the gentleman from Limestone, Mr. Burgess, moves that the House recess for fifteen minutes. Is this the pleasure of the House?

The motion prevailed, and the House so recessed.

After Recess—4:30 P. M.

Mr. FARWELL: Mr. Speaker and members of the House: During this recess we have had some talk in regard to the amendment that I tried to offer, and I find that perhaps I was not differing so far in my ideas as I thought at first, so I propose tomorrow morning to introduce a resolve, which is the only way in which we can establish a Recess Committee. I propose to offer tomorrow morning a resolve to establish a so-called Recess Committee to study the present code set-up and our various departments and to offer to this Legislature, if possible, any recommendations which they are able to make, or, if impossible, to some future Legislature. I believe that this committee would have ample time, and I believe it would take ample time to study the set-up of our State government, and I think it would be able to offer us amendments to our present laws which would be far more satisfactory than perhaps could be offered by a committee set up under the Order.

Mr. DONAHUE of Biddeford: Out of order and under suspension of the rules I present an amendment and move its adoption.

The SPEAKER: The question before the House is on the motion of the gentleman from Skowhegan, Mr. Hinman, that the House Order as amended be referred to the Committee on Judiciary. Will the gentleman defer his remarks?

Mr. DONAHUE: Mr. Speaker, I would like to request the gentleman from Skowhegan, Mr. Hinman, to withdraw his motion that I may offer an amendment at this time.

Mr. HINMAN: Mr. Speaker, if it is in order, I would be very glad to accede to the request of the gentleman from Biddeford, Mr. Donahue.

The SPEAKER: The Chair understands that the gentleman from Skowhegan, Mr. Hinman, withdraws his motion for reference. The pending question is therefore on the passage of the Order as amended.

Thereupon, out of order and under suspension of the rules, Mr. Donahue offered House Amendment "C" and moved its adoption.

House Amendment "C" to House Paper 2254, Joint Order Relative to Committee for the Purpose of Making a Study of the Financial and Functional Activities of State Departments.

Amend said Order by adding thereto the following:

'Said committee shall examine in to all the affairs and activities of the Governor relative to his knowledge of the incompetency of, and disregard of the Code Provisions by, any State official, and to further determine what causes, if any, exist for the impeachment of the Governor for malfeasance, misfeasance and nonfeasance of office.

The SPEAKER: The Chair understands that the gentleman from Biddeford, Mr. Donahue, moves that the rules be suspended so that the amendment can be in order at this time without reproduction. Is this the pleasure of the House?

Mr. DONAHUE: Mr. Speaker and members of the House: We have listened to the would be plea of justification by the Governor relative to his conduct of State affairs. The citizens of the State of Maine have done likewise. However, there appear to be certain undisputed facts that require a sweeping investigation of the activities of the Chief Executive. We can best serve the people of Maine, not only by passing remedial legislation but by exposing and properly punishing those responsible for malfeasance, nonfeasance and misfeasance in office. Our laws apply alike to the rich and the poor; the strong and the weak, politically or otherwise.

The reasons for an investigation of the activities of the Governor are manifold. I intend at this time only to refer to a few of them.

1. Illegal interference with legislative duties.

To dwell upon the proper functions of the three branches of the State government might well be construed as a needless effort, yet it is plain that Governor Barrows has attempted to illegally interfere with the rights of this Legislature.

If you will refer to the printed advisory opinion of the Justice of the Supreme Court of Maine, statements signed by Governor Barrows appear as follows:

"Subsequent to said date of April 8, 1940, certain other facts and conditions then unknown to me have come to my attention, knowledge of which facts proves to me the necessity of an intensive investigation of the past and present financial situation of our State government, and the apparent necessity of certain changes in the statutes in order that similar conditions may not

hereafter be permitted to prevail and it is impossible to complete such investigation **and draft such legislation as may be found necessary** before the date fixed for the convening of the Legislature in my proclamation. On April 10, 1940, I caused to be sent to each member of the Legislature, the following telegram:—

'Legislative session called for April eighteenth deferred by order of Governor. Stop. Disregard proclamation sent April ninth. (s) Harold I. Goss, Deputy Secretary of State.'

"And I am preparing to issue an official Proclamation postponing the convening of the Legislature to a future date to be fixed by me by Proclamation."

You are all well aware that upon receipt of the foregoing telegrams, many members of the Legislature rightfully questioned the right of the Governor to **defer or postpone** the convening of the Legislature. The Chief Executive had not, prior to the opinion of the Justices, issued a proclamation of revocation, nor had he indicated by word or act his intention to do so.

The Supreme Judicial Court advised that the Governor had the power by proclamation to **revoke** a proclamation convening the Legislature in special session, but no right to **defer** a special session to a later date.

The meat of the questions submitted to the said Justices was really as follows:

1. Can you advise me what steps I can take to prevent the Legislature from convening on April 18th?

2. Is the action that I have taken prior to the time of filing this request for an advisory opinion, to wit, April 13, 1940, authorized by the Constitution, and sufficient to prevent the Legislature from convening on April 18th?"

This second question was answered in the negative, and by implication denounced an illegal interference with legislative rights.

This conduct of the Governor, insisting that the Executive branch of the government investigate itself is not conducive to good government. What was the Governor afraid of? Has he reasons for fear now? The inadequacy and impropriety of such investigations is clearly disclosed by a perusal of the newspapers of our State, notably the Bangor News.

The reasons of the Governor for not calling a special session were

that there was no time to draft legislation— which was clearly the duty of the Legislature; that he did not want one hundred and eighty members gossiping in the halls, which was clearly an insult to the Legislature; gossiping about what? — his inefficiency; his evasion of duty; the fact that the Treasury had been robbed.

Let us further review his actions. 2. Neglect to report to the Legislature.

If you will refer to the Legislative Record of 1937, on pages 483-485, the House accepted the majority report of the Committee of fifteen, composed of the Economy Committee and the Committee on Appropriations and Financial Affairs:

"that a Joint Order be adopted which would place upon the Governor and Council the duty to investigate, or cause to be investigated, all the various departments of the State prior to the convening of the 89th Legislature and report the results of their survey together with such recommendations as they might deem proper regarding the financial affairs of the State."

That report was signed by thirteen members as follows:

Senate:—Leroy F. Hussey, George J. Wentworth, Chas. J. Chase.

House:—George D. Varney, Clifford G. Chase, M. P. Noyes, William P. Donahue, Norman E. Whitney, Edgar W. Russ, Ned H. Murchie, William P. Viles, L. E. Flanders, William H. Hinman.

Are we to sit here in that quiet peace that reeks of chloroform?

And on the same day passed the Joint Order, providing that

"All essential and necessary expenses pertaining to such investigation shall be paid by the Governor and Council out of the State Contingent Fund."

Then what happens? Was the Order complied with? Did the Governor know of its existence? At the Special Session in 1937, in his opening address, he said:

"Having in mind the mandate of your Legislative Order, the Governor and Council has constantly endeavored to conserve the resources of the State."

Clearly, he knew of the Order.

Was the Order complied with? No. Had it been complied with, the present State scandal would not exist. Did he report any deficiencies of the Code to the 89th Legislature? No. Should he have had knowledge of illegal manipulation of the

finances of the State at the time that the Controller presented him with the financial statement as of June 30, 1938, and was made the basis of the fatal assertion that he "had balanced the budget." Balanced the budget how?—with misstatements as to the State's assets, with stolen assets, with untrue bank balances.

Yet the Legislative Committee in 1937 considered coordination of the expanding departments, and the Governor, at the expense of the taxpayers and the good name of the State of Maine, refused and failed to perform his duty in this regard. What proof have we that he will do it now?

3. Permitting the State to engage in private business.

Was the Governor to blame? The obvious answer is, "Yes." He had the right to remove Runnells at any time. He knew that the State was engaged in private business and permitted this condition to continue despite the protests of the business men of Augusta, Hallowell and Gardiner, who were being deprived of retail sales, yet contributing their proportionate share of municipal, County and State taxes. Is not this evidence of incompetency?

We are told that records are missing. Were they missing in June, 1938, or have they disappeared since April 18th, when you should have been assembled to take charge of this investigation. The whitewash has prevented the citizens of Maine from learning the truth.

4. Misstatements of the financial position.

It is well to bear in mind that no business, public or private, can operate successfully without accurate knowledge of its financial position. The statements of the Governor this morning clearly indicate that we have taxed the people to obtain money for the Sinking Fund Reserve, and we had no knowledge of the true state of this fund. His misleading information to the Legislature has caused us to adopt plans unnecessarily, including the ignominious sales tax.

Is he chargeable for these misstatements? I sincerely believe that he is.

At the regular session in 1937, Page 700, referring to the Department of Audit, he said:

"Under chapter 216 of the Public laws of 1931, the State Auditor is directed to conduct a continuous

post audit of accounts and transactions of departments and agencies of the state government. This provision of law has not been complied with, because of lack of sufficient appropriation and personnel."

and at that time, he stated:

"I do not believe this law should be amended in this respect."

Pursuant to this message, the Legislature increased the appropriation for this department from \$18,000 per year to \$27,000 per year.

Clearly if the Governor did not believe that this increase was sufficient to permit this department to operate according to law, then his duty demanded that the matter be called to the attention of the Legislature by his power of veto. That year the Appropriations Bill was passed by the Legislature and signed by the Governor more than two weeks before adjournment.

Then, in 1939, he did not call attention in his address at the regular session to the fact that a complete post audit was not being conducted, yet by his silence we had a right to assume that he had made sure that the State Auditor was performing his duty. It clearly was his duty to see that the Department of Audit was properly staffed, and we are not to blame therefore, but the Governor and Council had the right to direct that the Department be properly manned.

It is well to bear in mind that at the request of the Governor, the Legislatures authorized the publication of financial statements, signed by the Controller, while the Code duty of the State Auditor required that the post audit of accounts should be made by that department. Was it to save the State Auditor from signing any false financial statements? Some reason for departure from the Code provisions must have existed.

5. The Auburn Robbery.

The so-called robbery at Auburn rang the alarm bell.

What did the Governor and Council do?

They removed from the job the head of the Maine State Police and Detective Maguire of Portland when they were close to a "break" and close to a solution of the crime.

There is indication that the Governor and Council didn't want the crime solved for fear of its repercussions. They wanted the lid clamped down. The Governor and Council brought Detective Maguire

before them and put him on the pan. He was examined by the Attorney General. He was forced to humble himself before the Governor and Council, because he had pointed out that a much larger shortage existed than had thus far been disclosed.

The Governor and Council and the Attorney General clamped the lid down like the Nazi conquerors in Europe. They would not have anyone in the State of Maine who dared to raise his voice and say that there was anything wrong with our State finances.

And now it comes to light that there may not have been a real robbery in Auburn, but only a "plant," only a fictitious attempt at robbery in order to cover up the huge shortage in the State's finances which was known to exist over here in Augusta.

Even the strongly Republican Bangor Daily News, one of New England's most conservative newspapers, came out on January 24, last, with screaming headlines indicating that the Auburn "robbery," so-called, disclosed a shortage of money missing before the "break."

And rumor has it that in order to cover up the shortage that existed over here at Augusta, a "break" in the Portland Automobile Registration Bureau was planned at the same time as Auburn.

All this should be investigated and brought out into the light of day, in order that the people of Maine may know just what did happen, and that all of those who may be guilty in this connection shall be apprehended.

Just think of it — here in the State of Maine a shortage existed in our State finances!

The Republican leaders of our State administration knew of this — at least someone knew about it.

The Governor and Council were firing and taking off the job investigators who might get to the bottom of things; and, in order to cover up the shortage, the charge is made that a fictitious robbery was planned so that it could be said that the money was stolen at Auburn.

If the scheme had worked it was thought that this would cover up the speculations that already existed at Augusta.

Do the honest, God-fearing citizens of Maine intend that all this

shall be hidden under a bushel and forthwith forgotten?

For more than two years the Democratic candidate for Governor of Maine, by the spoken and written word—both in his speeches and in his articles in the Portland Sunday Telegram—has been calling attention to the irregularities in our State finances.

For over two years he has pointed out that corruption existed and just where it existed.

Had the Governor and Council taken heed of Redman's warning over two years ago, this sorry mess in our State finances would not have been increasing in its intensity—as it has during the past two years—while the Republican Governor and the Republican Council and Republican officials over here at the State House have been sleeping. I charge that they have either been sleeping or they knew more than they now admit.

Put them on the pan the way they put Maguire on the pan. Put them under oath and make them tell what they know.

But we are told that a war is going on and therefore we must forget all about the stealing of our State funds.

But court marshal is in order even in war time.

Even the French Premier, Paul Reynaud, told the French Senate on Tuesday that unbelievable faults had been committed by the French army command in its failure to defend the bridge-heads or to blow up the bridges, in order to check the German advances, and he intimated that punishment and reprisals were in order.

Our Republican State officials here at Augusta have neglected to protect the bridge-heads. They have allowed theft and corruption to cross the bridges that lead into this State Capital where we meet today.

The guilty should be punished in peace time—just as the guilty in war time should be punished—in order to establish once and for all that huge thefts of State funds and corruption in our government will not be permitted by the sovereign people of the State of Maine.

6. Dictatorial Neglect of Duty.

Clearly the record of Governor Barrows evidences a dictatorial neglect of duty. A fine example of disregard of the rights of taxpayers was his refusal to permit former Representative Leonard to procure counsel to present charges relative

to neglect of duty by the County Attorney of Penobscot County. Apparently the motto is "The Legislature and the Taxpayers are unworthy of my notice." Such arrogance puts Hitler to shame.

7. Permitting Overdrafts in Departments.

We are told that some of the departments are overdrawn. The Code forbids overdrafts, and clearly places the responsibility therefor on the Governor. We operate under an **executive budget** and the Governor, by the proper control of work programs, had the duty, which he continually neglected, of knowing in advance of departmental operations. That such neglect existed is clearly evidenced by his statements, while talking to the State Grangers in Augusta, January 25th, when he said:

"I hope you will not be alarmed over certain things that have appeared in print lately. It won't be long until we have a pretty conclusive answer as to what's behind this flurry."

"I don't know what we are up against, dealing with those who are attempting to discredit the administration," the Governor also told the Grangers.

The day previous the Governor said to a Garden Club meeting that he hoped their members would not become disturbed over criticisms of State financial affairs in the press lately."

Recent developments would indicate that there was plenty hidden "behind this flurry." How much only time will tell. Thus ends an article in the Bangor News, dated April 17, 1940, which was mailed by that newspaper to every member of this House.

Control of State finances was delegated to the Governor and Council at the special session of 1937 as follows:

Chapter 106—Laws of 1937, which you will find printed in the year laws of 1939, on page 16, provided as follows:

(Statutory requirement that unpaid balance go to sinking fund)—Chapter 106, Special Session, 1937. (Laws 1939, page 16)—

"notwithstanding the provisions of sections 101 and 102 of chapter 2 of the Revised Statutes, the Governor and Council may by order direct the State Controller to transfer to the general funds of the state such parts of any appropriations for depart-

ments and institutions as may be in the opinion of the Governor and Council necessary for the economical and prudent conduct of the state government."

By that delegated power, responsibility was definitely placed. Yet it takes a scandal for the people of Maine to receive the news that we now have a larger Sinking Fund account than had been previously reported. What a miracle!

Therefore, members, in conclusion, I urge each and every one of you to vote for the proposed amendment. "Let us not sit here in that still peace that reeks of chloroform."

The SPEAKER: The question before the House is on the motion of the gentleman from Biddeford, Mr. Donahue, that House Amendment "C" be adopted.

Mr. VARNEY of Berwick: Mr. Speaker, may I ask that House Amendment "C" be read once more?

House Amendment "C" was again read by the Clerk.

Mr. VARNEY: Mr. Speaker, I had expressed the hope that we might continue through this session without the interjection of party politics. I still hold that same hope. I am of the opinion that this committee, if appointed under the terms of the original order, have ample authority to do everything which the amendment provides, and I wish to call your attention to the first paragraph, which provides that this committee shall have authority to conduct, or cause to be conducted, a study of the financial and functional activities of each and every State department, to determine whether or not State laws are being complied with, and may I further call your attention to the second paragraph, which authorizes, I suppose, at least, this Committee to be empowered to employ counsel, investigators and agents, subpoena witnesses, and require the production of books, papers, documents, records and other evidence, and, a little further down, that all State officials, which, of course includes the Governor and other departmental subordinates and employees having in their possession all record books, records or papers pertaining to the business of the State, shall make the same available.

May I say, briefly, that I do not believe there is any need for the amendment which the gentleman from Biddeford, Mr. Donahue, has offered. On the other hand, I have

no objection to it in any way. I would suggest, however, that it occurs to me that if he has any evidence to support the indictments which he has apparently given to this House that he proceed not by empowering a committee to conduct a further investigation of what he has apparently already investigated but that he start in the regular way by such impeachment proceedings as his previous investigation would warrant.

Let me say that I do not oppose the adoption of his amendment and if I am so fortunate as to serve on this committee, I will consider it my duty and privilege to listen to any charges or indictments that my brother, the minority Floor Leader, can bring before the Committee or any other of you members can bring before the committee, any indictments of the Governor or any other State official.

Mr. McGLAUFILIN of Portland: Mr. Speaker, I have no slightest objection to this special committee examining any department or any person, but I am opposed to this amendment, and I am opposed to it for this reason. I believe that this is put in here as a political measure to try to embarrass the Governor at this time, at a time when we all ought to be united in trying to solve the problems before us. I have on occasion opposed measures that I felt were Republican measures trying to embarrass the Democrats, like the law that was passed affecting Biddeford; I have tried to be fair. But I feel that this amendment is not offered in the sense of fair play or in the sense of a true intent to investigate in fairness, and I think it is purely a political proposition to try to single out the Governor in this respect. I shall, therefore, vote against this amendment, while I still say that I have no objection to the Governor being investigated or anybody else, but I will not play any dirty party politics at this stage. (Applause)

Mr. SLEEPER of Rockland: Mr. Speaker, I cannot help but feel that the gentleman from Portland (Mr. McGlaufflin) is right, and I have not any doubt but that our Governor will be glad to have the investigation made of his actions or offenses as Governor. Now, if we are to take the statement of the gentleman from Biddeford word for word, that he is thinking of the State and that he is not thinking of partisan poli-

tics, that he is not trying to smear Governor Barrows, if he will just add two words to his amendment, I will be very glad to vote for it, and these two words are "this Governor or the 'previous Governor'." (Applause)

Now, as I understand it, the funny business—I am not as wise as these lawyers because you see I don't know any technical terms—the funny business started way back in 1931 and continued right up through until the present time. The present Controller, who was found to be the goat perhaps, was very intimate with the Governor of another complexion. A certain official who held a very high position in the other party, through investigations of his own, found out that things were not as they should be and he caused to be printed sort of a scandal as to the handling of the E. R. A. funds of this State. That official promptly had his head cut off and no more was heard from him. The Federal government told us that that was something the State of Maine had no business to do, so I would suggest that the gentleman from Biddeford, if his amendment is non-partisan and for the benefit of the State, and if he is not trying to smear any individual, that he add those two terms, those two words "or the previous Governor," and then perhaps we can vote on it from a non-political point of view. (Applause)

Mr. DONAHUE: Mr. Speaker, I had no intention to smear anybody. My statements are backed by the record. If the gentleman believes we should investigate Ex-Governor Brann, then I will put the words in there; if he should be investigated, I shall put the words in there and include his name in that Order. If he has violated his trust he stands in the same position as Bill Runnells or any other State official.

Mr. HINMAN: Mr. Speaker, I don't think the gentleman from Biddeford (Mr. Donahue) and I have differed very often. We have been on the Appropriations Committee together through one of these periods that he speaks of and I have never heard him raise a voice against it, in fact, he was in accord with everything that was done at the time. Be that as it may, it clearly is the intent of this Order to cover every Department of State and we are just talking about something that has no bearing. It

is not necessary; it is entirely out of order; and I move the indefinite postponement of the amendment.

The SPEAKER: The question before the House is on the motion of the gentleman from Skowhegan, Mr. Hinman, that House Amendment "C" be indefinitely postponed. Is the House ready for the question? All those in favor of the motion of the gentleman from Skowhegan, Mr. Hinman, that House Amendment "C" be indefinitely postponed will say aye; those opposed, no.

A viva voce vote being taken, the motion prevailed, and House Amendment "C" was indefinitely postponed.

The SPEAKER: The question before the House is on the passage of the Order as amended by House Amendments "A" and "B".

Mr. HINMAN: Mr. Speaker, I move you that the Order be referred to the Committee on Judiciary.

The SPEAKER: The gentleman from Skowhegan, Mr. Hinman, moves that the Order as amended be referred to the Committee on Judiciary. Is this the pleasure of the House?

Mr. VARNEY: Mr. Speaker, as a matter of procedure I think it is only fair that I say that I do not oppose the present motion to refer the Order to the Committee on Judiciary or any other standing committee of this House. In fact, I would rather welcome the passage by some standing committee of this House upon this particular Order. I mean I would welcome their reviewing the Order, and, as I understand the Legislative procedure, if we have now had all the discussion that any of the members desire to make this afternoon concerning this particular Order, and we now vote to refer it to the Committee on Judiciary, that would result in the Order leaving this House and going to the Senate for concurrence or non-concurrence. We might, therefore, be a little further ahead in our discussion tomorrow morning if we should take that course, rather than leaving it on the table in this body over night. I do not particularly care, but I think that if we have discussed it as far as we care to discuss it this afternoon, that orderly procedure might require this body to at the present time refer it to the Com-

mittee on Judiciary and send it up for concurrence.

The SPEAKER: The question before the House is on the motion of the gentleman from Skowhegan, Mr. Hinman, that the Order be referred to the Committee on Judiciary.

Mr. BURGESS of Limestone: Mr. Speaker, it is probably lack of knowledge on my part that I rise to say what I have to say at this time. There are none of us here who believe anything but what we came here to perform a service for our people. We have the Order before us and I believe every one of us has given it some consideration, and I believe, although I have only the highest regard for any Committee, that, unless it is necessary, that it is proper for the House to decide themselves whether or not they want the acceptance of the Order now or after it has been referred. I believe we can do that here, members. It may be necessary. If it is necessary to go to a committee, then I have no objection. However, I believe we can proceed as a body here.

Mr. MARSHALL of Auburn: Mr. Speaker, I concur with the remarks of the gentleman from Limestone, Mr. Burgess, in this respect. As I understand it, if this Order goes to the Committee on Judiciary, I do not know what they can decide that we cannot decide here. It seems to me that if we can decide whether we want seven members on that committee, or whether we want sixteen, or eighteen, or whatever the number, that that should be decided, and I think that we should decide that now in order to expedite things. I might remind the members of this House that a Grand Jury, which is an investigating body, consists of anywhere from thirteen to twenty-one members. I might also suggest to the members, as far as the remarks of the gentleman from Biddeford (Mr. Donahue) are concerned, that I think that we ought to get right down to business as quickly as we can, and I believe from what information I have, if we all get to work on this thing and really get this committee under way that in probably at least ten days we can be out of here and know what we came here to do, and have it done. I propose that we get this committee named as far as the numbers are concerned and get it

functioning with all speed. The Legislature itself has the power to punish and hold for contempt. I notice in this Order here that the committee has the right to subpoena witnesses. If we should recess and go home while this committee is functioning, and if some witness did not appear in response to a summons, the committee would have to call us all back here again, or we would have to get together in order to remedy the situation. I also feel that I came here at my own request. I came here to help the people of my District. It is a burden, maybe at this particular time, but I have got to face that and bear it and I propose to stay here and get the work done with all speed and all diligence and due care, and get this job done now. (Applause)

The SPEAKER: The question before the House is on the motion of the gentleman from Skowhegan, Mr. Hinman, that the Order be referred to the Committee on Judiciary. All those in favor of the motion for reference will say aye; those opposed, no.

A viva voce vote being taken, the motion did not prevail.

Mr. NOYES of Franklin: Mr. Speaker, I have listened to the discussion, and have been pleased with the remarks that I have heard with one exception. I have been listening for one word that I have as yet failed to hear, and that is the word "confidence." We are here to do a job. I feel that the confidence of the people of Maine has been severely shaken and I feel that a committee that is appointed should not be appointed with its hands tied and I certainly feel, regardless of the number of men and women on this committee, that the minority party should be represented more than has been stated in Amendment "A." I would feel that with a Committee of seven on the part of the House that the minority party should be represented by three members. If you decide to have a larger Committee, I would increase the number of members from the minority party. I say that because I feel that the people will have more confidence in the report submitted, if the minority party is better represented. (Applause)

Mr. HINMAN: Mr. Speaker, may I ask a question through the Chair?

The SPEAKER: The gentleman from Skowhegan, Mr. Hinman, has the floor.

Mr. HINMAN: Mr. Speaker, do I not understand we have already acted upon an amendment which places eighteen upon that Committee?

The SPEAKER: The Chair will answer the question by having the Clerk read House Amendment "A", which has been adopted.

House Amendment "A" read by the Clerk.

Mr. HINMAN: Mr. Speaker, that Order has already been passed, has it not?

The SPEAKER: House Amendment "A" has been adopted. The question before the House is on the passage of the Order as amended. Is the House ready for the question?

Mr. NOYES: Mr. Speaker, I wish to offer the oral amendment that the minority party have six members.

The SPEAKER: The Chair will request the gentleman to put the amendment in writing.

Mr. DWINAL of Camden: Mr. Speaker, if it is in order, I might say that the representation of the minority party on that committee would be larger than two, would it not, on account of the situation in Androscoggin and other counties?

The SPEAKER: In the language of House Amendment "A" the recommendation would be left entirely to the recommendation of the House delegation regardless of party.

Mr. MERRIFIELD of Lebanon: Mr. Speaker, I do not believe this is so much a matter of county representation as a matter of the general confidence of the people at large throughout the State.

On motion by Mr. Noyes, the House recessed for five minutes.

House at Ease

On motion by Mr. Noyes, the House voted to reconsider its action whereby it adopted House Amendment "A" to House Paper 2254, Joint Order Relative to Committee for the Purpose of Making a Study of the Financial and Functional Activities of State Departments.

Thereupon, the same gentleman offered House Amendment "A" to House Amendment "A" and moved its adoption.

House Amendment "A" to House Amendment "A" to Joint Order, House Paper 2254.

"Amend said amendment by striking out in the fourth line thereof the word 'eighteen' and inserting in place thereof the words 'twenty-

two', and by striking out the word "two" in the next to the last line thereof and inserting in place thereof the word 'six'.

The SPEAKER: The Chair understands the gentleman from Franklin, Mr. Noyes, moves that the rules be suspended to permit consideration of the amendment at this time. Is this the pleasure of the House?

The motion prevailed.

The SPEAKER: The Clerk will read House Amendment "A" as it would read if House Amendment "A" thereto is adopted.

House Amendment "A" to House Paper 2254, Joint Order Relative to Committee for the Purpose of Making a Study of the Financial and Functional Activities of State Departments.

Amend said Order by striking out in the second and third lines thereof the following words: "of seven on the part of the House" and inserting in place thereof the words 'with twenty-two on the part of the House, sixteen of whom shall represent each of the counties and shall be appointed by the Speaker or, recommendation by the House Leaders from each county, and six shall be members of the minority party to be appointed by the Speaker.'

The SPEAKER: The question is on the adoption of House Amendment "A" to House Amendment "A". All those in favor of the adoption of House Amendment "A" to House Amendment "A" will say aye; those opposed, no.

A viva voce vote being taken, the motion prevailed and House Amendment "A" to House Amendment "A" to House Paper 2254 was adopted; and on further motion by the gentleman from Franklin, Mr. Noyes, House Amendment "A" as amended was adopted.

The SPEAKER: The question before the House is now on the passage of the Order as amended. Is the House ready for the question? All those in favor of the passage of the Order as amended will say aye; those opposed, no.

A viva voce being taken, the motion prevailed, and the Order as amended received passage and was sent up for concurrence.

The following papers from the Senate were taken up out of order under suspension of the rules:

From the Senate:

ORDERED, the House concurring, that no bill or resolve be received by this Legislature unless by unanimous consent in the body in which it is introduced, except such as relate directly to the financial condition of the State, the administration of the State Government and its several departments, military defense and the matters specifically set forth in the Proclamation of the Governor dated May 16, 1940, convening this special session or referred to in the Governor's message;

AND IT IS FURTHER ORDERED, that any bill or resolve which shall be received in either branch of this Legislature by unanimous consent shall be referred to the 90th Legislature if unanimous consent for its reception is not given in the other body in concurrence. These Orders shall not apply to such bills or resolves as are intended only to facilitate the business of the 89th Legislature. (S. P. 707)

Comes from the Senate read and passed.

In the House, read and passed in concurrence.

From the Senate:

ORDERED, the House concurring, that the Legal Affairs Committee be instructed to consider and report the advisability of proceeding by Address to the Governor and Council, or otherwise, for the removal of Belmont A. Smith, State Treasurer, accompanying its report with a form of such resolution or other process as it may recommend for the first step in such a proceeding by address. (S. P. 713)

Comes from the Senate read and passed.

In the House:

The SPEAKER: Is it the pleasure of the House that this Order have passage in concurrence?

Mr. MAXIM of Portland: Mr. Speaker, I am just asking now for information. Possibly Mr. Smith may deserve this method of dealing with him, but I am very eager that he shall have a chance to be heard, and that his case shall be heard, and I think, in fairness, that we should grant this, and may I ask if under this procedure he would be debarred from presenting his side of the case, or will he have a right to?

The SPEAKER: Shall the Chair request the Clerk to read the Order again?

(Clerk reads Order again)

Mr. VARNEY of Berwick: Mr. Speaker, I think perhaps I can answer the gentleman's question and clear up any question that there may be in the minds of any other members of this House by saying that any address proceeding which this Legislature should adopt could only be done under the terms of the Constitution, after the service of a notice on the particular individual, which notice would have to include a statement of the charges by which he was proposed to be removed; and give him an opportunity to appear before a Joint Convention of the House and Senate, and answer to those charges through himself or counsel. Now, this Order, as I understand it, refers merely to the Legal Affairs Committee the question of whether or not there should be started in process the machinery for a trial of the State Treasurer by a Joint Convention, and authorizes the Legal Affairs Committee, should they desire to do so, to file a report of their findings, together with such Resolve proposing such address as they might draw.

Mr. Speaker, in view of this safeguard of Mr. Smith's rights, I have no objection to the passage of the Order.

The SPEAKER: The question before the House is on the passage of the Order in concurrence.

Thereupon, the order received passage in concurrence.

Mr. LAMBERT of Lewiston: Mr. Speaker, I move the suspension of the rules in order to present a Bill.

The SPEAKER: The Chair will inform the gentleman that he will have to ask the unanimous consent under the Order adopted jointly. The Chair understands the gentleman from Lewiston, Mr. Lambert, asks unanimous consent to address the House. Is there objection? The Chair hears none, and the gentleman may proceed.

Mr. LAMBERT: Mr. Speaker and members of the House: I have a bill to present to this Legislature, that is in conformity to the Order that we just referred to the Senate. As I understand, this bill of mine is relative to a rebate of the title fees paid by the various automobile owners, and as the proclamation of the Governor called for consideration of repeal of the title law, I believe this Bill should be submitted to the Committee on Motor Vehicles for consideration and a state-wide abolishing of the Title Law. I would like to have permission to present this bill.

The SPEAKER: Will the gentleman please come to the Speaker's desk?

House at Ease

Mr. LAMBERT: Mr. Speaker, after considering the Bill, I have decided to defer it to a later date.

The SPEAKER: Is there any further business to come before the House under Orders of the Day?

The Chair will announce at this time appointments to several committees on which there are vacancies due to deaths and resignations read this morning:

Committee on Appropriations and Financial Affairs: The gentleman from Yarmouth, Mr. Arzonico, and the gentleman from Vassalboro, Mr. Hawes.

Committee on Judiciary: The gentleman from Parsonsfield, Mr. Batchelder, and the gentleman from Livermore Falls, Mr. Grua.

The Committee on Legal Affairs: The gentleman from Portland, Mr. Cowan.

The Committee on Motor Vehicles: The gentleman from Farmington, Mr. Mills.

On motion by Mr. Varney, of Berwick,

Adjourned until nine o'clock tomorrow morning Eastern Standard Time.