

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

Friday, May 24, 1940.

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Rev. Mr. Pressey of Augusta.

Journal of the previous session read and approved.

The SPEAKER: The Chair notes the presence in the House of the gentleman from Portland, Mr. LaFleur. The Clerk will note his presence in the Journal.

From the Senate:

Bill "An Act relating to the Auditing of the Accounts of the State Liquor Commission" (S. P. 708) (L. D. 1214)

Bill "An Act providing that Purchases for the Highway Commission shall be made by the State Purchasing Agent" (S. P. 709) (L. D. 1215)

Come from the Senate, referred to the Committee on Appropriations and Financial Affairs.

In the House, referred to the Committee on Appropriations and Financial Affairs in concurrence.

From the Senate: Bill "An Act relating to the Term of Office of Various Employees Under the Code" (S. P. 710) (L. D. 1216)

Comes from the Senate, referred to the Committee on Judiciary.

In the House, referred to the Committee on Judiciary in concurrence.

From the Senate: The following Order:

ORDERED, the House concurring, that three hundred and fifty copies of the Legislative Record for the Special Session of 1940, convened on May 23d, be printed and bound, one copy each for the members and officers of the Senate and House of Representatives, and the remainder to be deposited in the State Library for exchange and library purposes; and be it further

ORDERED, that three hundred and fifty copies of the Legislative Record be printed in pamphlet form for distribution from day to day to members of the Legislature and the departments under the direction of the Document Clerk (S. P. 704)

Comes from the Senate read and passed.

In the House, read and passed in concurrence.

Reception of Petitions, Bills and Resolves

Bill "An Act providing that Employers of Four or More Persons shall be Subject to the Unemployment Compensation Law" (Presented by Mr. Marshall of Auburn)

The SPEAKER: The Chair is forced to rule that under the Joint Order adopted yesterday that the Bill cannot be received except by unanimous consent.

Mr. MARSHALL of Auburn: Mr. Speaker, this particular Bill was presented to me yesterday by representatives of the State Federation of Labor of Maine.

The SPEAKER: The Chair will inquire of the gentleman if he is asking unanimous consent to address the House?

Mr. MARSHALL: Yes, Mr. Speaker.

The SPEAKER: The gentleman from Auburn, Mr. Marshall, asks unanimous consent to address the House. Is there objection?

Mr. McGLAUFILIN of Portland: I object.

The SPEAKER: Does the gentleman desire to take an appeal from the ruling of the Chair?

Mr. MARSHALL: I desire to under the circumstances, so I may state the reasons back of this.

As I started to say: This bill was presented to me yesterday by the President of the State Federation of Labor, and in order that it may have a hearing at this session, I placed it with the Clerk and suggested that it be referred to the Committee on Labor.

Now I am not prepared to argue this morning on the merits or demerits of the Bill itself or its proposal, but I did feel under the circumstances that we were going to deal with some of the phases of the Unemployment Compensation Law and it would not take us any longer to consider this Bill. I do not know how true this is, but I was told yesterday that the Associated Industries of Maine were in favor of this legislation. Now whether the House is in favor of this legislation—

The SPEAKER: The Chair will ask the gentleman to confine his argument to the question of the propriety of the Chair's ruling rather than to the merits of the bill.

Mr. MARSHALL: Simply this, Mr. Speaker—

The SPEAKER: The Chair will

suggest that the Bill be read at this time off the record, and the Clerk will also read to the House the cloture order adopted yesterday.

(The bill and order were read by the Clerk).

Mr. McGLAUFILIN: Mr. Speaker—

The SPEAKER: The gentleman from Auburn has the floor. The Chair will again request him to keep his debate as to whether the Bill proposed to be introduced by him comes within the terms of the Order.

Mr. MARSHALL: Mr. Speaker, I think I understand the thing clearly now. It is this: Whether this particular proposed legislation comes within the terms directly of the Governor's call is to be decided by the members of this House. If they say it is, then the Bill can be introduced; if they say it is not, then it cannot be introduced. I think that is precisely the situation. I do not think I need to take any more time.

Mr. McGLAUFILIN: Mr. Speaker, I wish to say just a word as to why I objected to this unanimous consent.

The SPEAKER: The gentleman will confine himself please, to the question.

Mr. McGLAUFILIN: I merely want to say that both of the last two Legislatures have passed on this matter and turned it down, and it will open up a big field for argument.

The SPEAKER: Is the House ready for the question?

The question before the House is: Shall the ruling of the Chair stand as the judgment of the House?

Mr. VARNEY of Berwick: Mr. Speaker, I wonder as I sit here whether everybody understands exactly what the question is. May I say that we yesterday passed an Order the substance of which provided that only Bills pertaining to the matters specifically mentioned in the Governor's message and bills pertaining to the financial structure of the State and Bills pertaining to the military defense of the State could be introduced at this special session except by unanimous consent.

Now when this Bill is offered this morning to be received the Speaker has ruled that this Bill does not come within the terms of that Order and therefore cannot be admitted by this House except by unanimous consent. Now we are going to vote

on whether we want to support the Speaker in his ruling on that particular matter, and, if we vote to support him, then the Bill cannot be introduced in this House except by unanimous consent.

The SPEAKER: Is the House ready for the question?

The question is: Shall the ruling of the Chair stand as judgment of the House?

All those in favor will rise and stand in their places until counted and the monitors will make and return the count.

A division of the House was had.

One hundred and four having voted in the affirmative and two in the negative, the ruling of the Chair was sustained.

The SPEAKER: Does the gentleman from Auburn (Mr. Marshall) desire to ask unanimous consent to introduce the Bill despite the cloture order?

Mr. MARSHALL: Mr. Speaker:

The SPEAKER: The gentleman has been refused consent to address the House. If he wishes to ask unanimous consent to introduce the Bill, it is in order.

Mr. MARSHALL: It is obvious unanimous consent would not be granted. I do not feel like taking any more time under the circumstances, Mr. Speaker. Thank you.

Bill "An Act to Incorporate the Town of Bridgewater School District" (Presented by Mr. Good of Monticello)

The SPEAKER: The Chair is forced to rule under the Joint Order that the bill cannot be introduced except by unanimous consent.

Mr. GOOD of Monticello: Mr. Speaker, I ask unanimous consent to address the House.

The SPEAKER: The gentleman from Monticello, Mr. Good, asks unanimous consent to address the House. Is there objection? The Chair hears none and the gentleman may proceed.

Mr. GOOD: Mr. Speaker and members of the House: I do not want to give you the impression that I want to press anything on the men and women of this House, but this might be a little different than the average Bill, so I just want to have the thing clear.

Last winter, in the middle of the winter, unfortunately, Bridgewater lost their high school by fire and the children were thrown out of doors and into various houses and

other places until spring came. Now if they can incorporate at this special session, then they can be able to obtain more money to build a schoolhouse. On the other hand, if they cannot incorporate and must wait until the next regular session of the Legislature, there will be a year passed. They say they do not know just what they are going to do with their children. I feel it would not be an imposition to ask the House to act on this, and I would consider it a great favor and I think the people of Bridgewater would also consider it a great favor.

The SPEAKER: Does the Chair understand that the gentleman asks unanimous consent to introduce a Bill despite the closing order?

Mr. GOOD: Yes, Mr. Speaker.

The SPEAKER: Is there objection to the introduction of this Bill?

The Chair hears objection and unanimous consent is refused.

Bill "An Act relating to Malt Liquors" (Presented by Mr. Porell of Westbrook)

The SPEAKER: The Chair rules that the bill cannot be received except by unanimous consent. The Chair understands that the gentleman from Westbrook (Mr. Porell) asks unanimous consent to introduce the Bill. Is there objection to unanimous consent being granted on this Bill?

The Chair hears objection.

Orders

On motion by Mr. McGlauffin of Portland, it was

ORDERED, that Mr. Lord of Brunswick, be excused from attendance because of his son's illness.

On motion by Mr. Varney of Berwick, it was

ORDERED, that Page E. Earl Brown, Jr., be Acting Assistant Sergeant-at-Arms during the absence of Daniel Foley for this session of the Legislature.

Orders of the Day

Mr. BURGESS of Limestone: Mr. Speaker, the matter of an explanation of the Auditors' report has been discussed in the corridors—

The SPEAKER: May the Chair ask for what purpose the gentleman has arisen? Does the gentleman desire to make a motion.

Mr. BURGESS: I do, Mr. Speaker, before I am through. I want to move that the Auditors—

The SPEAKER: The Chair understands the gentleman asks unanimous consent to address the House. Is there objection? The Chair hears none, and the gentleman may proceed.

Mr. BURGESS: Thank you, Mr. Speaker, for correcting me and getting me started right. I want to move that this House invite the Auditors or ask the Auditors to present themselves at the close of this session for an informal discussion of their report, in order that we may get their explanation and ask what questions we wish.

The SPEAKER: The Chair would suggest that the gentleman have an order prepared, covering the subject matter of his motion.

Mr. BUZZELL of Belfast: Mr. Speaker and members of the House: Under suspension of the rules and out of order and without reference to a committee, I wish to present a Resolution, and in support of that Resolution I would like to say that this Special Session was called to clear up and to correct conditions that have existed for some years and since enactment of the Administrative Code.

I am very confident this session will thoroughly investigate and report conditions just as they find them, for the benefit of all the people of the State of Maine.

Ours is a great responsibility—for after days and weeks and months of expert auditing and legal investigation, in the last analysis the responsibility is placed in our laps.

We must meet responsibility fairly and with justice to all, do our duty, and let the chips fall where they will.

This is not only of State-wide importance, for while we are only one State of the Nation, the several States go to make up the greatest Nation the world has ever known.

Twenty odd years ago I was called to this General Court as a Representative, to take part and share in passing timely measures before the World War.

Governments of the Old World are becoming memories, and more are severely threatened.

Radio and press reports should awaken us to the realization of how secure our great country is at this time.

I am fearful that we are unprepared to safeguard the best interests of our one hundred and thirty odd million people.

Germany, drunk with despotic power for only one thing, has two hundred or more mechanized divisions, while the U. S. A. has only one, as I learn it from reliable military authority. Little Poland had four, and now as a nation she has left the face of the earth.

Day after day it is being revealed that the new warfare in Europe is as different from the warfare in the World War as the battle of Chateau Thierry was different from the Battle of Gettysburg.

History and legend records that our forefathers at Lexington fired the shot heard around the world.

Maine was a part of Massachusetts then.

My colleagues, would it not be most timely for us to evidence our early and supreme interest in our Country's preparedness, from the same section of the United States of America, that our forefathers so bravely offered up their lives?

The SPEAKER: The gentleman from Belfast, Mr. Buzzell, moves that the rules be suspended to permit the introduction of the Resolution out of order. Is this the pleasure of the House?

The motion prevailed, and the Clerk read the Resolution, as follows:

MEMORIAL TO THE HONORABLE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, PETITIONING FOR SUMMARY PREPAREDNESS STEPS TO BE TAKEN IN MAINE.

We, your memorialists, the Senate and House of Representatives of the State of Maine, in the Special Session, assembled, most respectfully and urgently present and petition your Honorable Body as follows:

Whereas, the present war in Europe has assumed a most critical stage and is growing graver with each hour, and to a point where it vitally affects the safety and well-being of these, our United States of America, and

Whereas, the very existence of governments of the Old World have been destroyed and are still being threatened at this very moment, and,

Whereas, it was reliably reported over the radio and in the press today that serious consideration was being given to the plan that the government of England and Great Britain might be moved to some of its possessions, perhaps Canada, which Dominion at present, is in a state of declared war against Germany, and,

Whereas, the State of Maine occupies the northern-most and most easterly position on the Atlantic Seaboard, less than a day's distance, by air, from Europe, and,

Whereas, more than half the area of the State of Maine forms a peninsular-like bulge into Canada, being bounded on the North, East and West by that friendly Dominion, which, though engaged in war, is in no wise strategically, defensively or geographically equipped to resist invasion, and,

Whereas, our own State of Maine might be the first land of our Country to be attacked by an enemy air or sea force coming by the most direct great circle route from Europe, and,

Whereas, the present preparedness measures, so ably and timely advocated by our Commander-in-Chief, the President of the United States, that are now being formulated by Congress assembled, seem to offer the best methods of protecting and preventing our Nation and the State of Maine from being invaded, now therefore be it

RESOLVED: That we, your memorialists, do hereby respectfully petition and urge The Congress to take such steps at once as are necessary and meet to best safeguard the State of Maine and its people.

RESOLVED: That a copy of this Memorial, duly authenticated by the Secretary of State be immediately transmitted by the Secretary of State to the proper officers and committees of the United States Senate and House of Representatives, the President of the United States and to each of the Representatives and Senators, representing the State of Maine in the United States Congress.

The SPEAKER: The gentleman from Belfast, Mr. Buzzell, moves that the rules be suspended to permit consideration of the Resolution at this time without reference to a committee. Is this the pleasure of the House?

The motion prevailed.

The SPEAKER: The question before the House is on the adoption of the Resolution. Is the House ready for the question?

Mr. MILLS of Farmington: Mr. Speaker, I move that the Resolution be referred to the Committee on Military Affairs.

The SPEAKER: The gentleman from Farmington, Mr. Mills, moves that the Resolution be referred to the Committee on Military Affairs. Is this the pleasure of the House?

Mr. LaFLEUR of Portland: Mr. Speaker, may I be permitted to add my bit to the endorsement of this Resolution?

I have been a Reserve Officer for ten years, and for the first time in ten years -

The SPEAKER: The Chair will remind the gentleman that the pending question is reference to a committee. Will the gentleman confine his remarks to the question? The question before the House is on the motion of the gentleman from Farmington, Mr. Mills, that the Resolution be referred to the Committee on Military Affairs. All those in favor of the motion for reference of the Resolution will say *aye*; those opposed *no*.

A *viva voce* vote being taken, the motion prevailed, the Resolution was referred to the Committee on Military Affairs and sent up for concurrence.

Mr. FARWELL of Unity: Mr. Speaker, I ask unanimous consent to address the House.

The SPEAKER: The gentleman from Unity, Mr. Farwell, asks unanimous consent to address the House. Is there objection? The Chair hears none and the gentleman may proceed.

Mr. FARWELL: Mr. Speaker, I ask unanimous consent to address the House because it is my purpose at this time to offer a Resolve under suspension of the rules if it is so granted to me. This Resolve which we propose at the present time is to establish a recess committee of seven members from the House and three from the Senate, for the sole purpose of considering the practical working of the Administrative Code and other departments of this State, studying them carefully, and to make, if possible, to this Legislature, and if not, to the next Legislature, such recommendations for changes of our statutes to provide for the better operation of these depart-

ments and to prevent a recurrence of the unfortunate situation that is now facing us. It is not my intention that this committee shall in any way, shape or manner interfere with another committee which has been proposed for an investigating committee. I merely believe that the present set-up of our State departments must be studied very carefully before any recommendations can be made to this or any other Legislature that would be worth while, and I believe it will take some time and much consideration by the men who would be upon that committee. I ask for a suspension of the rules that I may introduce this Resolve at this time.

Resolve read by the Clerk, as follows:

STATE OF MAINE

In the Year of our Lord, Nineteen Hundred Forty.

RESOLVE, Providing for a Research Committee to Study the Administration of State Affairs.

Whereas, recent happenings in connection with the administration of the prudential and financial affairs of the state may demand an immediate analysis necessary in order that changes may be made by the Legislature to correct these conditions, and

Whereas, unless this bill becomes immediately effective the committee appointed under its provisions will be unable to function with sufficient time to make recommendations to this Special Session or to the next regular session of the Legislature, and

Whereas, in the judgment of the Legislature these facts create an emergency within the meaning of section 16 of article XXXI of the constitution of Maine, and require the following legislation as immediately necessary for the provisions of the public peace, health and safety, now therefore Be it resolved by the People of the State of Maine, as follows:

Sec. 1. That there be and hereby is created a Legislative research committee to consist of 3 members of the Senate, to be appointed by the President of the Senate, and 7 members of the House of Representatives, to be appointed by the Speaker of the House, which committee shall be known as the

"Committee on Administrative Code." Said committee shall meet as soon as convenient after the appointment and qualification of its members, and organize by electing a chairman and secretary. Said committee shall study and consider the practical working of the administrative code and of those departments or agencies of the state government included within its provisions, and of all other departments and agencies of the state government not now operating under the statutes relative thereto, with a view to recommending such changes in the statutes creating the administrative code and providing for the operation of the other departments of the state as may be necessary to improve administration of the affairs of the State of Maine, and shall draft and present with its report such amendments to the present existing statutes as shall, in the judgment of the committee, be necessary or advisable, and said committee shall make a full and complete report to this special session or to the next regular session of the Legislature, or it may file its report with the Clerk of the House during any recess of this special session. The committee shall be furnished an office in the State House in Augusta, and the members thereof shall be reimbursed for their actual expenses only; the said expenses shall be approved by the Governor and Council. The committee is authorized to employ such expert assistants as it may deem desirable, provided that all of the expenses of the committee incurred therefor shall not exceed the sum of \$3,000, payable from the general funds of the state.

Sec. 2. Emergency clause. In view of the emergency cited in the preamble hereof, this act shall take effect when approved.

The **SPEAKER**: The gentleman from Unity, Mr. Farwell, moves that the rules be suspended to permit the introduction of a Resolve out of order. Is this the pleasure of the House?

The motion prevailed, and the Resolve was introduced.

On further motion by Mr. Farwell, the Resolve was referred to the Committee on Legal Affairs, five hundred copies ordered printed and sent up for concurrence.

On motion by Mr. Burgess of

Limestone, out of order and under suspension of the rules, it was

ORDERED, that the Representatives of the Firm of Ernst and Ernst be invited to attend an informal meeting in the hall of the House at 6.30 P. M. standard time, for the purpose of discussing their report with members of the Legislature.

The **SPEAKER**: The House is proceeding under Orders of the Day. Is there any business to come before the House? If not, the House may be at ease.

HOUSE AT EASE

11 A. M.

The House was called to order by the Speaker.

The following paper from the Senate was taken up out of order under suspension of the rules:

Joint Order relative to Committee for the purpose of making a study of the financial and functional activities of state departments (H. P. 2254) which was passed in the House yesterday as amended by House Amendment "A" as amended by House Amendment "A" thereto and by House Amendment "B".

Comes from the Senate with House Amendment "A" to House Amendment "A" indefinitely postponed, House Amendment "A" indefinitely postponed, House Amendment "B" adopted in concurrence, Senate Amendment "A" adopted and the Order passed as amended by House Amendment "B" and Senate Amendment "A" in non-concurrence.

In the House: Senate Amendment "A" read by the Clerk.

Mr. **STARRETT** of Warren: Mr. Speaker, I move that we insist on our former action and ask for a Committee of Conference.

The **SPEAKER**: The gentleman from Warren, Mr. Starrett, moves that the House insist on its former action and ask for a Committee of Conference. Is this the pleasure of the House? All those in favor of the motion of the gentleman from Warren, Mr. Starrett, that the House insist on its former action will say aye; those opposed no.

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

Mr. **McGLAUFILIN** of Portland: Mr. Speaker, I would like to ask, as a matter of information, what is left

of the original Order after this amendment.

The SPEAKER: The Clerk will read the entire Order as amended by Senate Amendment "A" and Senate Amendment "A" thereto.

The Order as amended read by the Clerk.

Mr. VARNEY of Berwick: Mr. Speaker, may I inquire first if Senate Amendment "A" to Senate Amendment "A" appears to have been adopted in the Senate. I believe that is the Amendment which changes the number of Senators from four to three.

The SPEAKER: Senate Amendment "A" to Senate Amendment "A" was not adopted in the Senate.

Mr. VARNEY of Berwick: Mr. Speaker, I would like to explain to the members of the House as best I can what the situation is at this time relative to that Order.

First, I will say that as it comes amended from the Senate with the correction that I have just called your attention to, it changes the number now to be four on the part of the Senate and seven on the part of the House. Should you adopt the amendments or recede and concur with the Senate, you will have a committee of four on the part of the Senate and seven on the part of the House, the Senate members to be appointed by the President of the Senate, and I believe I am correct when I say that there is no provision there in the amendment itself for how the House members shall be appointed; but if you accept it in that form they would, under the rule, be appointed by the Speaker. It makes only one other change in the order, I mean only one other change that is of any importance. I think they add the word "Commission", giving them authority to investigate a Commission, and I think that is relatively unimportant. The amendment itself had the words "and give the committee the right to punish for contempt." I do not very often talk for the record, but I want to say this much for the record, that I as an attorney do not believe that this Legislature by an Order can give a committee of this Legislature authority to punish anyone for contempt or for any other thing. I do not care, however, personally, whether that provision is in there or not, because I think it is immaterial either way. I do not believe the committee could ever punish for

contempt if we attempt to give them that authority by Order. That would have to be done, if at all, by legislative Act or Resolve.

Personally, I am in favor of the larger committee. I am very much in favor of some committee, and therefore I would not like to see the whole idea thrown out the window. Personally, I would like to see this matter worked out in a Committee of Conference, if possible, and if not, then perhaps we could take some other action.

Mr. STARRETT of Warren: Mr. Speaker, I move that we recede and concur with the Senate, and I have an amendment to offer.

The SPEAKER: The gentleman's motion to recede and concur with the Senate would result in final disposal of the Order if that motion prevailed.

Mr. STARRETT: Mr. Speaker, if I ask to reconsider our action that we have just taken and offer my amendment, would the amendment be in order at this time?

The SPEAKER: The Chair understands the gentleman withdraws his motion that the House recede and concur with the Senate.

The gentleman from Warren now moves that the House reconsider its action of yesterday whereby it passed the order in question as amended by House Amendments "A" and "B". Is this the pleasure of the House? All those in favor of the motion for reconsideration of the vote of yesterday will say aye; those opposed no.

A viva voce vote being taken, the motion for reconsideration prevailed.

Mr. Starrett of Warren, then offered House Amendment "D" and moved its adoption.

House Amendment "D" to Joint Order relative to Committee for the Purpose of making a Study of the Financial and Functional Activities of State Departments (H. P. 2254)

Amend said Order by striking out the first sentence thereof and inserting in place thereof the following: "Ordered, the Senate concurring, that there be and hereby is created a Joint Committee of nineteen members to consist of fifteen on the part of the House and four on the part of the Senate, the Committee of nineteen to be appointed by the Speaker of the House and the President of the Senate acting in concurrence, whereby each of the sixteen counties will be rep-

resented and three members from the minority party.

The SPEAKER: The Chair will rule the amendment out of order on the ground that the Chair cannot dictate the appointment of members by the President of the Senate.

Mr. HINCKLEY of South Portland: Mr. Speaker, if it is in order, I would like to make a motion to recede and concur.

The SPEAKER: The present status of the Order is that we have reconsidered our vote of yesterday whereby the Order was adopted. A motion to concur at this time, in the opinion of the Chair, would result in the passage of the Order as amended by Senate Amendment "A."

Mr. HINCKLEY: Mr. Speaker, I would like to make a motion that we concur.

The SPEAKER: The gentleman from South Portland, Mr. Hinckley, now moves that the House concur with the Senate.

Mr. HINCKLEY: Mr. Speaker, we have been sitting around here now for a day and a half, and this House has not accomplished one thing, and I am getting almost to the point where I want to do this business and go home or come back again at a little later date and finish up what we have on hand. I believe the temper of the House also is of the same tenor. I think you all want to finish this business as quickly as possible, and it seems ridiculous for us to have sat around here all yesterday afternoon and all this morning, talking about how many we shall have on the committee. I think this House was pretty evenly divided yesterday on what we wanted—seven and three, or sixteen from the House and perhaps seven or eight from the Senate. I think now they are very satisfied they want a small committee because they believe that committee will be more efficient than a large unwieldy committee comprised of one possibly from each of the various counties. You might get a dozen lawyers on a committee of that kind. You might get a dozen farmers, you might get a dozen businessmen, and I submit to you that such a committee would not be an efficient working committee, and I believe we want one that will work efficiently. For that reason, I am absolutely in favor of

the Order that we have received from the other body at the present time, namely a committee of seven and three, which was contemplated by our original Order, and I hope that my motion will prevail.

The SPEAKER: The Chair will call the gentleman's attention to the fact that the Order as passed in the Senate calls for a committee of four on the part of the Senate.

Mr. HINCKLEY: Mr. Speaker, I have no objection to four on the part of the Senate.

The SPEAKER: The gentleman from South Portland, Mr. Hinckley, moves that the House concur with the Senate in passing the Order as amended by House Amendment "B" and Senate Amendment "A" and in the indefinite postponement of House Amendment "A" as amended. Is the question clear to the House? All those in favor of the motion to concur with the Senate will say aye; those opposed, no.

A viva voce vote being taken, the motion to concur prevailed.

The SPEAKER: The Chair will announce the members of the committee later and suggest a brief recess at this time.

On motion by Mr. Varney of Berwick,

Recessed until one o'clock this afternoon.

After Recess—1 P. M.

The House was called to order by the Speaker.

The SPEAKER: The House is proceeding under Orders of the Day. Is there any business to come before the House at this time?

The Chair will announce the appointments to the committee created by the Joint Order, and, by way of explanation, will state that the Chair has conferred with the President of the Senate for the purpose of insuring so far as possible proper geographical representation: Messrs. Varney of Berwick, Donahue of Biddeford, Dow of Norway, Noyes of Franklin, Hinman of Skowhegan, Richardson of Strong, MacNichol of Eastport.

The SPEAKER: The Chair is expecting papers from the Senate later in the afternoon and knows of no business to come before the House at this time.

On motion by Mr. Varney of Berwick,
Recessed until 2.30 o'clock this afternoon.

After Recess—2.30 P. M.

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

From the Senate:

Bill "An Act Appropriating Moneys for Overdrafts Already Incurred Due to Insufficient Appropriations and Anticipated Overdrafts and Other Obligations for which no Legislative Appropriations have been made" (S. P. 718) (L. D. 1221)

Comes from the Senate referred to the Committee on Appropriations and Financial Affairs.

In the House, referred to the Committee on Appropriations and Financial Affairs in concurrence.

From the Senate:

Bill "An Act Amending the Unemployment Compensation Law relating to Employer Liability and Coverage" (S. P. 717) (L. D. 1222)

Comes from the Senate referred to the Committee on Judiciary.

In the House, referred to the Committee on Judiciary in concurrence.

From the Senate:

Bill "An Act Permitting State to Accept Federal Funds for Promotion of Aviation" (S. P. 714) (L. D. 1220)

Comes from the Senate referred to the Committee on Military Affairs.

In the House, referred to the Committee on Military Affairs in concurrence.

From the Senate: The following Order:

ORDERED, the House concurring, that free telephone service be provided for each member and officer of the Senate and House to the number of fifteen (15) calls, of reasonable duration from Augusta to points within the limit of the State of Maine, and that each member and officer of the Senate and House be provided with a card to be certified to by the Secretary of State or his deputy; the cost of this service to be paid to the New England Telephone and Telegraph Company at regular tariff rates (S. P. No. 720)

Comes from the Senate read and passed.

In the House, read and passed in concurrence.

MESSAGE FROM THE SENATE

At this point a message was received from the Senate, through its Secretary, proposing a Convention of both branches of the Legislature to be held this evening at six o'clock Eastern Standard Time, for the purpose of extending an invitation to the properly authorized representative or representatives of Ernst & Ernst, Auditors, to attend the Convention and to answer such questions as may be deemed necessary by the Convention to explain the recent report of Ernst & Ernst.

The **SPEAKER**: The House hears the message and thanks the Secretary.

Does the House care to take any action on this proposal of the Senate?

Mr. **HINMAN** of Skowhegan: Mr. Speaker, I don't know just how to approach the question but I am wondering if it would not be in order for us to suggest that Ernst & Ernst be invited to transmit to us, in the language of the fellow on the street, that material that is covered in the report, rather than for us to attempt to ask them questions. This is actuated by the fact that I myself have not the capacity to grasp anything from this report or very much from it at this moment, and I have talked with really competent men in the State House and they tell me that they would want at least two weeks before they would be in a position to ask questions. Therefore, it would seem to me that if we have, in every day language, transmitted to us the contents of the report that perhaps we will get more from it than we would from asking them questions.

The **SPEAKER**: Does the Chair understand that the gentleman from Skowhegan (Mr. Hinman) moves the rejection of the proposal? The Chair would suggest that if that is his intention, then it would be possible for the House to draft a counter proposal conforming with the gentleman's ideas.

Mr. **HINMAN**: Mr. Speaker, would it be possible to accept the invitation and then proceed along the lines I have suggested provided the Auditors so choose?

Mr. **MILLS** of Farmington, Mr. Speaker, I think it is entirely improper for us to consider that this

body is not in a position to ask some questions, elementary though they may be, of the firm of Ernst & Ernst, when they appear here this evening. I do not wish to see any strings attached to the acceptance of the proposal made by the Senate.

Mr. MAXIM of Portland: Mr. Speaker, I have had a very brief personal interview this afternoon with one of the members of the Ernst and Ernst firm, and he tells me that he intends to present this matter to the House in as simple language as possible and with as much simplification of figures as may be achieved when you are dealing with a complicated book-keeping system. There are some things so complex they cannot be simplified beyond a certain point, but he says that up to that point he would be glad to present the matter in laymen's language so that we can all understand it.

Now it seems to me very desirable that we accept this proposal from the Senate for a Joint Convention for the purpose of asking questions. I want to ask some, and I am very sure that all of you will want to ask some yourselves. I should be very sorry to see this proposal of the gentleman from Skowhegan (Mr. Hinman) prevail. I very much want to have a Joint Convention called that this matter may be presented now when we are all so eager to hear the story from headquarters.

Mr. HINMAN: Mr. Speaker, I move we concur with the Senate in accepting the invitation.

The SPEAKER: The Chair understands the gentleman from Skowhegan withdraws his previous motion and now moves that the House accept the proposal for a Joint Convention on the terms as stated by the Secretary. Is this the pleasure of the House?

The motion prevailed.

The SPEAKER: The Clerk will convey the message.

The Chair will state there are possible additional papers that may come before us for attention and suggests that the members remain within the sound of the gong.

House at Ease

3:30 P. M.

Called to order by the Speaker.

Mr. BURGESS of Limestone: Mr. Speaker, I move that the Order

which I introduced earlier in today's session be reconsidered.

The SPEAKER: The gentleman from Limestone, Mr. Burgess, moves that the House reconsider its action taken earlier in today's session whereby it passed the Order, which the Clerk will now read.

Order read by the Clerk.

The SPEAKER: It is the pleasure of the House to reconsider its action taken earlier in today's session whereby it passed this Order?

The motion prevailed; and on further motion by Mr. Burgess, the Order was indefinitely postponed and sent up for concurrence.

Additional paper from the Senate, out of order and under suspension of the rules.

From the Senate:

ORDERED, the House concurring, that before reporting on the matter reported today by Order S. P. 713, dated May 23rd, pertaining to the advisability of proceedings by address for the removal of Belmont A. Smith, State Treasurer, that the Legal Affairs Committee hold a public hearing and that a representative or representatives of the firm of Ernst and Ernst and the office of the Attorney General present all available facts for the consideration of the committee pertinent to the conduct of the office of the State Treasurer, and,

BE IT FURTHER ORDERED, that said hearing be held in the Senate Chamber on Tuesday, May 28th, at 9:30 A. M. Eastern Standard Time, S. P. 724.

Comes from the Senate, in that body read and passed.

In the House, read and passed in concurrence.

On motion by Mr. Varney of Berwick,

The House recessed until 5:45 P. M. Eastern Standard Time.

Evening Session

After Recess
6:45 P. M.

The House was called to order by the Speaker.

Mr. HINMAN of Skowhegan: Mr. Speaker and members of the House: There has been appointed today by our Speaker, after consulting with the County Delegates of the various counties, members of the committee

to perform a service to you in the most satisfactory manner they may choose, and I thank both the Speaker and the Somerset County Delegation for having chosen me for that committee, and though I feel that we as members of this Legislature cannot on the spur of the moment refuse to render any service we are called upon to render, I, for one, have no desire to attempt to render any service that one single member of this Legislature may feel can be better rendered by another, and, in the interest of the purpose for which we are forming this committee, the scope of its work, and in order that there may be absolute and complete satisfaction to everybody in the Legislature and all others as far as we may please them, I think it is best and I most respectfully ask that I be excused from serving on that committee.

The SPEAKER: If there is no objection, the Chair understands the gentleman is excused from serving. Is there objection? The Chair hears no objection and the gentleman is excused. The Chair will appoint to the vacant position on the Joint Committee, the gentleman from Winthrop, Mr. McNamara.

Mr. LAMBERT of Lewiston: Mr. Speaker, may I have the unanimous consent to address the House?

The SPEAKER: 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: As you all know, this week I attempted to present a bill pertaining, as I believed at the time, to the repeal of the Automobile Title Law. This bill would provide for a rebate in 1941, in case the Automobile Title Law was repealed, to those having a receipt in their possession or a certificate of title to show that they had paid one dollar. That amount would be rebated in 1941 on their registration. It was a point of whether or not this bill could be put in without unanimous consent of this House, in the regular channels, but, due to the fact of some developments which have occurred in this House and due to the fact that they adjourned for a short time and reconvened later, I would like

to call attention to the fact that this Bill of mine is absolutely, in my opinion, pertinent to the repeal of the Automobile Title Law. Without the repeal, this bill is absolutely useless.

I will also call your attention to the fact that in your Governor's Address, on page 5, it says the law was never an administration measure. I take it, then, that this law was never meant as a revenue measure. If it was not meant as a revenue measure and if it is going to be repealed by this Legislature upon the recommendation of the Governor, then it is only fair to the taxpayers of the State of Maine that they should be represented. I do not ask the state to refund or send a dollar to every one of them, but I would favor in this Bill the giving of one dollar rebate on next year's registration to all of those who have paid for a title which will be absolutely no good if this law is repealed. That is all this bill calls for, and I believe, in the discretion of the members of this House, it should go at least before the Committee on Motor Vehicles for their consideration. I therefore would like to ask unanimous consent of this House to present at this time this Bill.

The Bill was read by the Clerk.

The SPEAKER: The gentleman from Lewiston, Mr. Lambert, asks unanimous consent to introduce a Bill in spite of the Joint Closing Order. Is there objection? The Chair hears objection.

Mr. MILLS of Farmington: I rise to a point of order, Mr. Speaker.

The SPEAKER: The gentleman may state his point of order.

Mr. MILLS: Has it been ruled by the Chair, Mr. Speaker, that this was a Bill which was not germane to the call for the session?

The SPEAKER: In answer to the point of order, the Chair will state that the gentleman from Lewiston (Mr. Lambert) asked unanimous consent and unanimous consent was refused.

Mr. LAMBERT: Mr. Speaker, may I have a chance to ask the purpose of the objection or isn't that proper?

The SPEAKER: Unanimous consent has been denied.

Mr. LAMBERT: Would this Bill go through the regular channels? Would it be permissible to have it go through the regular channels?

The SPEAKER: If the gentleman desires to introduce the Bill in regular order, the Chair will rule on it when presented.

If there is no further business to come before the House at this time, the House may be at ease pending the arrival of the Senate.

House at Ease

The House was called to order by the Speaker.

The following paper from the Senate was taken up out of order under suspension of the rules:

ORDERED, the House concurring, that when the Senate and House adjourn, they adjourn to meet on Tuesday, May 28, 1940, at three o'clock in the afternoon E. S. T. (S. P. 725)

Comes from the Senate read and passed.

In the House:

Mr. VARNEY of Berwick: Mr. Speaker, I would just like to say a word by way of explanation to the effect that it is contemplated that as many of the committees as can and which have matters referred to them will advertise them for public hearing on next Tuesday forenoon or early in the afternoon and will make an effort to get their committee reports back into the various branches of the Legislature for the Tuesday afternoon Session so that we can go to work as soon as possible.

While I am on that thought, I understand that after the Joint Convention is dissolved this evening there are one or two further references that perhaps this House can attend to before we adjourn.

At this point the Senate came into the hall of the House and a Joint Convention was formed.

IN CONVENTION

The President of the Senate in the Chair.

The CHAIRMAN: The Convention will come to order, and the Chair recognizes the Senator from Cumberland, Senator Spear.

On motion by Senator Spear, it was

Ordered, that the Sergeant-at-Arms be requested to wait upon representatives of Ernst & Ernst, Auditors, to inform them that the two branches of the Legislature are in Convention assembled in the hall

of the House of Representatives, and extend to them an invitation to attend the Convention for the purpose of explaining the recent report of Ernst & Ernst, Auditors.

Subsequently the Sergeant-at-Arms escorted Messrs. Wilkinson and Noon, of the firm of Ernst & Ernst, Auditors, to the rostrum of the House.

The CHAIRMAN: This Convention is called for the purpose of hearing the representatives of Ernst & Ernst explain certain features about the audit. After they have finished their explanation, any member of the Convention may ask them any question concerning this audit through the Chair.

I introduce Mr. Wilkinson, of Ernst & Ernst.

Mr. WILKINSON: You gentlemen will understand I am here tonight at your request and at the suggestion of the Governor and not because I have any particular message. We tried to prepare a report which would be fully explanatory. Of course, we are dealing with a technical subject, complex, and it is difficult at times to express accounting facts in language which is entirely clear to the layman. I have no particular explanation to make but perhaps those assembled here tonight would be interested in something of the background and perhaps a more detailed statement as to the scope of our examination.

When we were engaged for this investigation or examination it became a problem with us as to the extent that we should extend our work into all the ramifications of the State accounting. Perhaps some of you know that in the process of a year's business in the State there are approximately one million checks issued. There are forty odd departments of the State receiving income of many different types, all of which are supposed to be deposited through the treasurer's office. In addition, we have independent bureaus and commissions like the Liquor Commission which in itself is a large scale business with forty odd stores scattered around the State. Our problem, therefore, was to first familiarize ourselves with the character of the transactions that were being handled by the different departments and bureaus and to select those areas within which we decided that we should concentrate our attention.

Our first procedure, therefore, was to have representatives visit every department in the State to make a record of the character of the transactions flowing through that department, both income and disbursements. Then when these services as we call them, had been made, we studied the situation in each department carefully and decided then on the scope of the detailed audit which should be made on the transactions within that department.

As to the balance sheet, we soon learned that we were going to be faced with some difficulties. We found, as we said in our report, that there were no satisfactorily reconciliations of some of the most active bank accounts. We found that there had not been for years itemized lists of the delinquent tax accounts which tied in and totaled with the amounts shown in the general ledger. We felt that it was not our particular problem to locate all the differences which I have just referred to, particularly those in the tax accounts, and we followed the policy of reporting to the department heads and to the State Controller and State Auditor these differences as we found them, with a request that they be examined and explained to our satisfaction.

It was on the Friday preceding April 1st that we had a conference in the Governor's office at which were present Mr. Runnells, the former Controller; Mr. Hayford, the Auditor; Mr. Deering, Mr. Douglass and Mr. Winship. The conference was to discuss these differences which we had reported upon and decide how much of the work in checking out the differences should devolve on us and how much of the task should be undertaken by the State's own organization. It was at that conference that I referred specifically to the treasurer's checks. You have already heard of the treasurer's checks, no doubt, and perhaps they require a little explanation.

There is a great deal of business conducted between the various departments of the State, as for example, the State Prison, which manufactures various types of furniture and fixtures for other State departments. I remember, for instance, the case of one of the hospitals having some teapots made at the hospital. In the same way the Highway Department furnishes ser-

vices of various types which are properly chargeable to other State departments. It has been customary ever since the inception of the Code for these interdepartmental charges to be cleared exactly the same as if the transaction was with an outside party. Taking that case I cited of the teapots, the prison would render an invoice to the hospital. The hospital would approve it and put it through for payment to the Controller's office the same as if the teapots had been purchased from John Jones & Company. The Controller's office would issue a check made payable to the treasurer's department, State Prison. That check would go to the State Prison and in turn be deposited by the State Prison through the treasurer's office to the credit of the State Prison. As accountants, it struck us rather strange that these transactions within the State departments were being handled through checks which were very much in the nature of negotiable instruments although made payable to the Treasurer of State, and we had early decided that because of the unusual character of those transactions, at least in the manner in which they were handled through the treasurer's checks, that we would have to at least make a very thorough test of the treasurer's checks to make sure that they were being properly credited back to the departments to which they were drawn.

It was at that conference on a Friday, that after discussing the various differences to which I have referred and as to how they might be cleared and who was going to clear them, I stated near the end of the conference that one task which we were certainly going to undertake was making a substantial test of the treasurer's checks. On the following Monday morning one of our representatives to whom had been assigned the task of visiting some of the State departments to make a survey as I previously outlined, went to the Highway Garage.

Following the same procedure which he had done in the other departments he had visited, he inquired as to what receipts, if any, were going through the garage, who handled them and how they were handled and how the proceeds of the garage sales were being transmitted to the State Treasurer. He

was told that the receipts for a long time had been delivered to the Controller's office and that the daily receipts averaged anywhere between \$25.00 and \$50.00 a day in cash and that the daily receipts were sent to the Controller's office either every day or every other day, or at least quite frequently.

It struck him as a little strange that these cash receipts were being routed through the Controller's office because it was our understanding of the provisions of the Code that the controller was not to handle any cash receipts or other receipts. Immediately after lunch he returned to the Controller's office and inquired of the then Controller regarding these garage receipts. The Controller stated that perhaps they did go through his office. He was not entirely familiar with it and referred our representative to one of the clerks in the Controller's office who, the Controller stated, was the one who handled these garage receipts. Our representative then had a talk with the clerk to whom he had been referred and learned that the garage receipts as they came to her came very infrequently, not more than once a month and consisted almost entirely of checks, practically no cash. Our staff man then immediately returned to the Controller's office to secure further explanation, but in the meantime the Controller had left his office and it was that afternoon that he had his accident.

We immediately, of course, with all the attendant circumstances, decided we had a situation that should have immediate and careful attention. This was on Monday preceding the Republican Convention in Portland. I immediately assigned another man to the audit of the garage receipts. These garage receipts were recorded in the garage on a pre-numbered receipt form in five copies, of which the original was given to the purchaser, the second, third and fourth copies were supposed to be delivered with the income sheet to the treasurer's office, and the fifth copy bound in a book. We started auditing those bound copies in the garage receipt books to compare the totals as shown by the carbon copies shown in the books with the total amount that had been delivered to the treasurer's office with the income sheets. It was not until Friday when we had covered a sufficient

period to be satisfied that there were unaccounted for receipts. We were unable to see the Governor that Friday as he was in Boston. We stayed over on Saturday on purpose to see the Governor but he had an engagement in Skowhegan. I am reciting these circumstances which led up to the cancellation of the call for the convening of the Legislature.

I returned to Boston on Saturday afternoon, expecting to see the Governor the first thing Monday morning and not knowing he had planned to issue any call for the Legislature. When I arrived here Monday morning the call was out and I had the duty of telling the Governor there was something wrong in the Controller's office.

No doubt many of you are familiar with the circumstances as they have been developed at quite some length in the newspapers. There was another phase which we developed later in connection with the treasurer's checks and it is hardly a story which we need to take your time with. The full story of the shortage has not been entirely developed. We are still checking up these treasurer's checks for the full period from January 1, 1932 to March 31, 1940. Because of the way these treasurer's checks are handled in the accounting records and the way they are entered in the cash books in the Treasurer's office it has delayed us in completing the detail audit of these treasurer's checks more than we anticipated.

As we state in our full report we expect to make a full supplementary report on that phase of our work as soon as the detailed examination back of January 1, 1932 of the treasurer's checks has been completed.

Coming now to our report on the balance sheet of June 30, 1939 and the revenue and expenditures for the two years then ended, we have tried to furnish in this voluminous report the details which should answer most questions which can be raised regarding the balance sheet and the revenue and expense. There are supporting schedules in here for the cash, not only in active bank accounts but in the closed bank accounts. There are schedules in complete detail as to the tax accounts receivable, with respect to all trust funds and appropriation accounts, appropriation balances. There are schedules in

there which show the transactions in the appropriation accounts for the two years with all journal transfers. There are itemized schedules of all the various sources of revenue which tie in with the condensed statement of the revenue expense. There are reconciliations which explain in detail all the changes which we have made in the balance sheet as it was originally published.

I know of no particular schedule or item which requires any elaboration unless it may be the 1937 deficiency account, our treatment of it and the Sinking Fund Reserve. I am led to believe that that particular subject may require some further explanation, from the fact that I have been asked several times today by members of the Legislature as to the underlying philosophy of those accounts.

Referring first to the 1937 deficiency account, I can say that that was not our baby. The Legislature itself has passed a law freezing, if you will, the deficiency which existed in 1937 in the amount of two million and forty-four thousand dollars and provided a new tax on beer with a provision in the law that this deficiency of two million dollars should be amortized by applying the proceeds from the new tax, and it was believed at the time that the tax would take care of that deficiency account in four years. Later the Legislature amended the act and limited the amount to be applied from the new beer tax to an amortization of the deficiency account to one hundred thousand dollars a year.

In the preparation of our report after consultation with the Attorney General as to our interpretation of the law we believed we had no option except to establish the 1937 deficiency account as provided by law. Doing so of course resulted in an increase of credit to the Sinking Fund Reserve of the amount so transferred to the 1937 deficiency account.

I want, therefore, to explain that to anyone reading the State balance sheet they should take into consideration in determining the position of the State actually on June 30, 1939 the net amount of the free account shown on the balance sheet under surplus and deficiency account. We have a Sinking Fund Reserve of eight million, eight hundred and seventeen thousand,

eight hundred and forty-seven dollars and ninety two cents on Page 17. We have the contingent fund of three hundred thousand, making two million, one hundred and seventeen thousand from which should be deducted the amount shown in brackets for the deficiency of 1936 and 1937 for a million and ninety two thousand which will give you a net surplus for the State at that date of approximately a million and twenty-five thousand dollars, which is without taking into consideration the unrecognized assets and some unrecognized liabilities which are separately scheduled on Page 80.

You will note, if you refer to the report there, that if we had given consideration to the additional assets and the additional liabilities and also provided for reserves for estimated losses of deposits in closed banks and uncollectable tax accounts we would have a net amount of seven hundred and twenty-four thousand dollars which under a different accounting procedure would be entered on the balance sheet of the State, an increased amount of a million and twenty-five thousand dollars which I have previously computed, bringing the total net worth to a million and three quarters.

Some of these assets which we list on Page 80, unrecognized assets, probably have more value than some of the assets which are included in the balance sheet. On the other hand, a substantial part, in fact the greater part of the unrecognized assets are assets which when received in cash and entered in the treasury will go to the highway fund which under the law is restricted to the use of the Highway Department.

There are no other features of our report on which I have been questioned to any extent, which lead me to the hope that possibly our report has been read and understood at least as well as we hoped it would be. I will be glad to answer any question which may be put to me, if I am able to.

Mr. BUZZELL of Belfast: Mr. Chairman, I suppose the gentleman who has just spoken can appreciate the subject matter which we are now considering and which is on the lips of many of our constituents. Do you appreciate that, Sir?

Mr. WILKINSON: I believe I do, Sir.

Mr. BUZZELL: You appreciate that all of the Representatives and Senators of this Legislature are especially charged at this time in connection with the subject matter of this special session of the Legislature, in view of the last paragraph of the Governor's message which reads: "Members of the 89th 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." You would think that that last paragraph made our duties fully more onerous, wouldn't you?

Mr. WILKINSON: I presume so.

Mr. BUZZELL: When did the firm or corporation of Ernst and Ernst begin its audit.

Mr. WILKINSON: Approximately on March 11th, I believe.

Mr. BUZZELL: And what has been the total cost of this audit to the State of Maine?

Mr. WILKINSON: Well, the last time I computed it, it was, with cash expenses, in the approximate neighborhood of forty to forty-five thousand dollars.

Mr. BUZZELL: And when was that?

Mr. WILKINSON: A week ago.

Mr. BUZZELL: Will fifty thousand cover the complete cost of this audit?

Mr. WILKINSON: I should think it should unless the Legislature wants us to do more work than we have at present in mind doing.

Mr. BUZZELL: Is Ernst and Ernst a corporation?

Mr. WILKINSON: No, Sir.

Mr. BUZZELL: A partnership?

Mr. WILKINSON: Yes, Sir.

Mr. BUZZELL: Are you a member of the partnership?

Mr. WILKINSON: I am, Sir.

Mr. BUZZELL: Who employed your partnership?

Mr. WILKINSON: The Governor, through the Council. There was a formal Council Order, I believe, authorizing our employment.

Mr. BUZZELL: In view of the great concern of every Representative and every Senator in this special session I desire to ask you this question, in view of a current rumor, do you know of a case against the firm of Ernst and Ernst that is reported—

Mr. BIRD of Rockland: Mr. Chairman, I rise to a point of order.

The CHAIRMAN: The gentleman may state his point of order.

Mr. BIRD: I thought, Mr. Chairman, that we were to have a hearing on the details of the audit and not on the character of Ernst and Ernst.

The CHAIRMAN: The Chair rules that the point is well taken. The questions should be confined to the audit.

Mr. BUZZELL: I accept the Chair's ruling and wish to make this statement in closing: If it is permissible, that I will accept the Chair's ruling but I am fearful of the word "whitewash" at home.

The CHAIRMAN: The Chair would restate for the Convention that the Convention call is "for the purpose of explaining the recent report of Ernst and Ernst."

Mr. MCGLAUFLIN of Portland. Mr. Chairman, I would like to ask the gentleman if he will make it clear to me how we have one million and some eight hundred thousand dollars—or perhaps a little less—we will say a million and three quarters more than we thought we had, when it is quite obvious that we have not got any more money than we had before the audit began? In other words, to make my point clear, is it due to the fact that our officials thought that a part of this money was ear-marked for other purposes? The point that I want to make is this: We came to this Legislature supposing that we had to raise money to meet a deficiency. The Governor informs us that we will not have to raise any new taxes. Now where is the money that is available to meet these deficiencies when we have got so much more money than we thought we had, and at the same time we have not got a cent more than we have had right along?

Mr. WILKINSON: We tried to explain that question, which is a good, proper question. We anticipated it, on Page 20. Starting in the middle of the page is a schedule entitled "Reconciliation of Sinking Fund Reserve." We show in the first line of that schedule the balance of the Sinking Fund Reserve as it appeared in the published statement of June 30, 1939, \$185,734.24. We itemize there the additions which we have made and the deductions which we have made, arriving at the amount which we show in our balance sheet of \$1,817,847.92. It will be noted, looking at that schedule, as I ex-

plained before, that the first item is nothing but a bookkeeping transaction for setting up that 1937 deficiency account. The next item is the one which accounts for the principal part of the increase from \$185,000 in the original published statement and the figure of \$1,025,000 which I stated before was the net amount which we show as the net worth of the State on this balance sheet at June 30, 1939. \$700,000 is the net worth of the Liquor Commission at June 30, 1939. We show later in the report on Page 56 a balance sheet of the Liquor Commission so that you can see for yourselves what is represented by the \$700,000 which we have included in the balance sheet which was not included in the published balance sheet, the greater part of course representing the inventory of the liquor carried in the forty odd stores of the Commission and in the wholesale department.

Mr. McGLAUFILIN: I still, Mr. Chairman, do not quite understand where we have more available funds than we had before.

Mr. WILKINSON: We are not making any statements that we have found assets which the State never had. The State has always had the assets. We are not magicians. We have not gone out and produced assets the State did not have. We have simply given financial recognition to some of the assets which were not properly recorded before.

Mr. McGLAUFILIN: Mr. Chairman, I wish to make it clear that I am not in any way trying to criticize. I am trying to find out. I would like to know if the gentleman can explain where we have available funds to meet our deficiency, from this report. I do not doubt but what we have found the assets but where are the funds we can use that we could not use before?

Mr. BUZZELL: Mr. Chairman, I rise to a point of order.

The CHAIRMAN: The gentleman may state his point.

Mr. BUZZELL: As I understand it, we are here to consider this audit and not to make Christopher Columboes out of the gentleman speaking to us tonight. (Laughter)

The CHAIRMAN: The Convention will come to order.

Mr. McGLAUFILIN: Mr. Chairman, if I have asked any question that the gentleman does not see fit

to answer, I will withdraw it, but I think he is willing to answer my question.

Mr. WILKINSON: I will be glad to, to the best of my ability. It hardly comes within the province of accountants to explain to you experienced legislators how to produce the money which is needed for the functions of the State. I might refer to the experience of two years ago when the Sinking Fund Reserve was smaller than we reported it to be, at least at the present time. The Legislature did appropriate \$549,000 out of the Sinking Fund. The cash was found somewhere; it was not borrowed, and the Sinking Fund today we think is fully as good as it was before. That may not answer the question in detail, but I might answer it in another way. You may perhaps be more familiar with corporation statements. It is not unusual to have a substantial surplus shown on a financial statement of a corporation without it having very much cash in the till, it being represented by amounts due from customers, amounts tied up in inventory or in property, plant and equipment, and did not have the cash, and it wants to pay a dividend, there is only one answer, it goes out and borrows the money to pay it.

Mr. McGLAUFILIN: In other words, we have resources from which we can raise money, is that it?

Mr. WILKINSON: That is the answer, including \$4,457,000 of cash.

Mr. McGLAUFILIN: Does that mean that the Governor can use some part of that money which is in the contingent fund that he thought he could not use before?

Mr. WILKINSON: My answer to that would be that it is within the discretion of the Governor to use his contingent fund as he deems best. If he has any balance left and wants to use it, I understand he has a legal right to use it.

Mr. McGLAUFILIN: I am still trying to get this point clear, which is not clear to me. There are over four million dollars in the treasury according to the Governor's report. I take it that a large part of that money is ear-marked for highway purposes, we will say, and that cannot be used as a part of the contingent fund. Now have you discovered that in that four million dollars there is some part of that that increases the amount that is available for current uses over

what we supposed we had before?

Mr. WILKINSON: We have made no attempt to determine how much of the cash is ear-marked. The State accounts have not been kept on that basis. All of the cash which comes into the treasury goes into the general fund. If it is money that is received from a source which is ear-marked, such as the gasoline tax for instance, the cash comes in and flows into the general fund and is credited to the Highway Department. The Highway Department does not go out tomorrow and spend that, they have that to their credit and, at June 30, 1939, we show in this report that the Highway Department had to its credit \$3,700,000. It would be entirely practicable—whether it would be reasonable or not is another question entirely—to take all that money which comes in from ear-marked sources and ear-mark the cash. What would be the result? The result would be this: You would have large amounts of cash put aside in funds ear-marked for specific purposes. At the same time you might be short in cash for your general funds because of the failure of the taxpayers to pay their taxes on time or because of the failure of the Federal Government to pay your money which they had agreed to pay for money which you had spent for various purposes in which the Federal Government was going to participate. So, having ear-marked the cash for your special purposes and having no cash left in the general fund, you would then be in the position of having to go out and borrow money while your till was full. So it would be entirely practicable but whether it would be reasonable or not is another question.

Mr. McGLAUFILIN: I want to thank you for your patience.

Mr. SPEAR of Cumberland: Mr. Chairman, may I ask Mr. Wilkinson a question through the Chair?

The CHAIRMAN: The Senator may ask the question.

Mr. SPEAR: What did the former Controller say to the Assistant Treasurer or Treasurer of state when he cashed the checks?

Mr. WILKINSON: You will understand that anything I repeat here is heresay so far as I am concerned. If I may go back, would you be interested in hearing what developed?

Mr. SPEAR: Yes, I would.

Mr. WILKINSON: It was not a development of a few minutes or a few days. Back in 1934, which is the first instance we have any knowledge of, the Controller secured some cash advances from the Treasurer's office, telling him that he would account for it later; that he needed the cash for one purpose or another. Later on a Treasurer's check came through made payable to the Controller's office. That was delivered to the State Treasurer and the tickets were taken out. The Treasurer had received a check for the cash which he had previously advanced to the Controller. That check was charged to the Bureau of Accounts and Control as a warrant and which is marked "Advance per W. A. Runnells." That procedure continued in increasing larger amounts until about the middle of 1938. Now these disbursements of cash charged to the Bureau of Accounts and Control in that manner naturally had the tendency to overdraw the appropriation of the Bureau of Accounts and Control. In order to keep his overdraft down, he put through journal entries crediting his department and charging the Highway Department. So that, in effect, the Highway Department was charged a good share of the cash advances originally taken out of the Bureau of Accounts and Control. For the fiscal year ended June 30, 1938, the total of the Journal entries crediting the Bureau of Accounts and Control and charging the Highway Department was \$113,000, a good share of which was legitimate because the Bureau of Accounts and Control was functioning as the bookkeeping headquarters for the Highway Department. Starting in July of 1938, or soon thereafter, the practice was discontinued. In the meantime the Controller had arranged with, well, for instance, the Unemployment Compensation Commission, to pay the Bureau of Accounts and Control for checkwriting services. All the checks for the Unemployment Compensation Commission were written in the Controller's office. When these checks from the Unemployment Compensation Commission and from the Highway Commission for these services came in, some of them were properly deposited with the Treasurer and credited to the Bureau of Accounts and some were not. Repeating now what I have heard said, and having no personal

knowledge of it, when he first approached the Treasurer's office to have a State Treasurer's check cashed, the explanation of it was that he was going to make a surprise audit of the highway payroll and he wanted the cash in order to go out and pay off these men as a surprise audit. He designated how he wanted this check split up, that is, so many tens, fives, and ones, and so much in coin. At another time he was reported as having said that he needed some money to hire detectives and did not want a voucher put through in the usual way because he did not want anybody in his department to know that he was employing detectives. I believe there were several other explanations offered but I think eventually after he had established the practice of having checks cashed without going into a great deal of detail, he continued to have them cashed without making any explanation.

Mr. SPEAR: Thank you, Mr. Wilkinson.

Mr. HILL of Cumberland: Mr. Chairman, reverting for a moment to the Sinking Fund Reserve on which the gentleman from Portland, Mr. McGlaflin, has addressed some questions, in the same spirit as that which actuated the gentleman from Portland, which is one of a request for information rather than a spirit of criticism, I desire to ask a few questions of the gentleman.

On Page 20 of the report, under the heading "Reconciliation of Sinking Fund Reserve," the first item "Balance Per Published Report, \$185,734.24"—that, as I understand it, is the balance that was given by the former Controller. Is that correct?

Mr. WILKINSON: That is right.

Mr. HILL: And does that figure consist of cash?

Mr. WILKINSON: Well, to an accountant, that is a puzzling question, because the surplus is represented by a lot of things. It represents the net difference between the total of the assets and the total of the liabilities. That is what the \$185,000.00 is, the difference between the total of the assets and the total of the liabilities.

Mr. HILL: Would you say that there is that amount now available in cash in the Sinking Fund Reserve?

Mr. WILKINSON: Well, there is a great deal more cash than there

is in the 'Sinking Fund Reserve.'

Mr. HILL: I am addressing my questions, Sir, to the account known as the Sinking Fund Reserve and endeavoring to find out what it consists of.

Leaving, for the moment, the first item and coming to the second item: "Set-up of 1937 Deficiency Account," — does that consist of cash?

Mr. WILKINSON: No.

Mr. HILL: The third item is "Set-up of State's Investment in Liquor Commission"—that, I understand it, would consist of the assets of the Liquor Commission including stock in trade or liquor, fixtures, accounts receivable of the Liquor Commission. Is that correct?

Mr. WILKINSON: That is correct.

Mr. HILL: Am I correct in understanding that, regardless of what may be the accounting practice of any individual firm or corporation, the Sinking Fund Reserve of the State of Maine consists only of those items that are set forth in the statute as constituting the Sinking Fund Reserve?

Mr. WILKINSON: That is not my understanding, that it has to be cash.

Mr. HILL: That was not my question, Sir. My question was whether the Sinking Fund Reserve of the State of Maine consists only of those items that are set forth in the statute which creates and controls the fund.

Mr. WILKINSON: I am not aware that the statute specifically states anywhere how the Sinking Fund Reserve is to be computed.

Mr. HILL: Does not Section 102 of Chapter 2 of the Revised Statutes specify that the Sinking Fund Reserve is to consist of unexpended balances of appropriations and all in excess in the contingent fund over the amount of \$300,000.00—is that correct?

Mr. WILKINSON: Yes, Sir.

Mr. HILL: Then can you explain to me and to the Convention what there is in that statute that warrants or authorizes the inclusion in the Sinking Fund Reserve of assets such as physical property or stock in trade?

Mr. WILKINSON: The statute with respect to the Liquor Commission specifically provided that the profits of the Liquor Commission should be lapsed to the general funds each year in excess of the

profits earned to June 30, 1935, which the Legislature designated as the working capital for the Liquor Commission, but the Liquor Commission has not complied with the law which I referred to.

Mr. HILL: So that the item of \$700,000.00 is included in the Sinking Fund by virtue of a provision in the statutes on the Liquor Commission?

Mr. WILKINSON: That is the reason which led us to put it in there. There is actually \$336,000.00 of these accrued profits of the Liquor Commission which should have been lapsed as they were earned, but which we have not taken up in the general funds because they had not been converted into cash, because the Liquor Commission was opening stores and required a larger inventory than was originally contemplated by the Legislature when it designated the amount of working capital they should have.

Mr. HILL: Am I correct in understanding that the purpose of the Sinking Fund Reserve is to have funds available to meet the State's obligations in bonds?

Mr. WILKINSON: Well, you are asking me a question which I do not feel entirely competent to answer, what the original intent was of the Legislature in referring to the Sinking Fund Reserve as it did in that law that you referred to. I only considered what I believed it meant by that law.

Mr. HILL: Isn't it clearly stated in that law that the Sinking Fund Reserve is to be used for that purpose?

Mr. WILKINSON: Yes, I believe it is.

Mr. HILL: Thank you very much.

Miss LAUGHLIN of Cumberland: May I ask if Ernst and Ernst have made any investigation whatever as to possible misappropriations of funds previous to 1937? You referred to what the Controller had said when he got the first interdepartmental money from the Treasurer. Have you made any investigation back of 1937?

Mr. WILKINSON: Oh, yes. I thought I stated that we are now in the process of checking up on the Treasurer's checks back to the inception of the Code in 1932.

Miss LAUGHLIN: Then does the amount of misappropriation which has been stated as misappropriation

by Mr. Runnells include any misappropriation back to 1932?

Mr. WILKINSON: Yes, we set that forth in our report.

The CHAIRMAN: Would the Senator raise her voice a little?

Miss LAUGHLIN: Yes, Mr. Chairman. That is the first time I ever got that request. (Laughter)

Miss LAUGHLIN: What I was asking was whether this investigation would give us the information as to the total misappropriation by the Controller from the time he had been appointed and not those years which are specifically set out in detail?

Mr. WILKINSON: On Page 13 we tabulate the amounts which we had determined to be included in the shortage as of the date that this report was written, and it is classified as between irregular checks and the Highway Garage receipts. The first amount for the garage receipts is in 1931, and the first irregular checks that we have listed are in 1934. So far we have not found any irregular checks back of 1934, but we have not concluded our investigation.

Miss LAUGHLIN: So that this amount covers the entire misappropriation since his appointment?

Mr. WILKINSON: Up to this date.

Mr. STEVENS of Jonesport: I would like to ask the gentleman a question. Have the books of the State been adjusted to conform to the report of Ernst and Ernst?

Mr. WILKINSON: I could not say. I believe that they have in some respects. For instance, with respect to the cash, I believe that adjustments have been made to correct the errors which were disclosed. I believe there have been some adjusting entries made by the new Controller to adjust some of the other differences such as were disclosed in the audit of the Tax Accounts Receivable, but I am quite sure they have not taken all of our adjustments and particularly they have not made the adjustment in the case of the Liquor Commission, which they would not have authority to do.

Mr. STEVENS: May I ask a question as to the cost to the State of Maine to retain your services to appear before this body, per day?

Mr. WILKINSON: Well, I would put in my time at my usual rates. There has been no special fee ar-

ranged for me to appear here to-night.

Mr. SLOSBERG of Gardiner: Mr. Chairman, I would like to ask the gentleman how much of the Sinking Fund Reserve as of June 30, 1939, which I understand is \$1,817,000.00—how much of that money is now available in cash?

Mr. WILKINSON: In the first place, the Sinking Fund Reserve to which you refer was as of last June, June 30th, 1939. Now how much there is May 23 or 24, 1940, I couldn't say.

Mr. SLOSBERG: Then I will ask the gentleman how much of that money was in cash as of June 30th, 1939?

Mr. WILKINSON: That, too, is a difficult question. They had cash far in excess of the Sinking Fund Reserve, but, as I explained before, it was not ear-marked, and I made no attempt, and I do not know that anyone has, to ear-mark the cash as of June 30th, 1939.

Mr. SLOSBERG: Could the gentleman inform me how much of that \$1,817,000 is cash?

Mr. WILKINSON: Well, at that date there was over \$4,000,000 in cash.

Mr. SLOSBERG: I do not believe the gentleman understands my question.

As I understand it, the Sinking Fund Reserve shows a balance of \$1,817,000. Is that correct?

Mr. WILKINSON: That is correct.

Mr. SLOSBERG: How much of that amount was in cash as of June 30, 1939?

Mr. WILKINSON: As I explained in answer to one previous question, the Sinking Fund Reserve is nothing more than the difference between the total assets and the total liabilities and you cannot say it is represented by so much cash or so much accounts receivable or so much anything else. It is just the difference. You have got total assets so much, and liabilities of so much, and the difference between them is the Sinking Fund.

Mr. SLOSBERG: Then if I understand the gentleman correctly, this is a form of bookkeeping rather than money available?

Mr. WILKINSON: Well, there was more cash in the Sinking Fund, if that is an answer.

Mr. MacNICHOL of Eastport: In the report of Ernst and Ernst, under the caption "Defalcation," it

states: "Soon after we began our examination, we visited the garage operated by the Highway department and began an examination of its accounts." According to your statement here a short time ago, you began your accounting on March the 11th. You say soon after that you visited the Highway Department Garage. How soon after that did you find something wrong in the Highway garage?

Mr. WILKINSON: To the best of my recollection, our first visit to the Highway Garage was on Friday preceding April 1st. Would that make it March 27th, when I stated we had started our examination on March 11th? Technically that was the date that we started. Actually, we did not get down to do very much work until a week or so after that.

Mr. MacNICHOL: A week or so afterward would make it March 18th. Did you really appear here with your auditors and commence auditing the books?

Mr. WILKINSON: Yes.

Mr. MacNICHOL: That would be a safe margin. And soon after that you began the examination of the State garage as per your report here.

Now I was trying to establish the fact of when you first found a defalcation in the State Garage accounts. Was it a week after that? That would bring it the 18th, and seven days would be the 25th.

Mr. WILKINSON: Right in that neighborhood. It may have been ten days.

Mr. MacNICHOL: The only thing I wanted to bring out: The Governor, according to his speech, was not apprised of that until April 8th, after the Convention.

Mr. WILKINSON: That is right. I explained the circumstances of his not being notified of the shortage until April 8th.

Mr. MacNICHOL: Then from around the 24th or 25th of the month you knew there was a defalcation but still you did not advise the Governor that there was one?

Mr. WILKINSON: Well, we started in the Highway Garage, as I recall it, on either the Friday or the Monday—I could get the exact date for you—I think it was Monday, the week before April 1st., whatever that date was. When we first went into the garage, when our suspicious were aroused, we started

our checking. We knew by late Thursday that there was something wrong. I tried to report to the Governor on Friday. He was in Boston on Friday. I stayed over to report to him on Saturday. He was in Skowhegan on Saturday. I went home to Boston and I returned here on April 8th.

Mr. MacNICHOL: Then it was some time between April Fool's Day and Good Friday? (Laughter)

Mr. WILKINSON: That is right.

Miss LAUGHLIN: I am probably stupid, yet I don't see on that Sinking Fund Reserve how we could use liquor in the liquor stores to meet the purposes of a Sinking Fund Reserve.

Mr. WILKINSON: I will agree that is hard to explain.

Miss LAUGHLIN: In other words, do I understand the State House is a Sinking Fund Reserve because it is above our liabilities?

Mr. WILKINSON: The Governor, I believe, in his message, has recommended that the Legislature consider the advisability of establishing a State-owned corporation similar of course to the R. F. C. of the Federal government. The Federal government has established the practice of organizing corporations to do certain particular things, and I understand that the Governor has recommended or suggested to the Legislature that the State of Maine organize a corporation to operate the Liquor Commission, then that corporation could raise the money to pay the State which the Liquor Commission owes it at the present time.

Miss LAUGHLIN: Still our Sinking Fund Reserve, as I understand it, is funds with which we can meet what the statute gives for that Sinking Fund Reserve, and I do not see yet how we could collect the liquor from the liquor stores to be used for that purpose. In other words, it is physical assets perhaps above liabilities, just as all the property of the State is. As I said, the State House is above our liabilities but we couldn't call that a Sinking Fund Reserve, could we?

Mr. WILKINSON: No.

Miss LAUGHLIN: I still cannot see how we can count all the liquor in the liquor stores a Sinking Fund Reserve. It may be certain assets.

Mr. WILKINSON: Well, the law provides that the profits of the Liquor Commission should be lapsed to the general funds, and there are

\$336,000 that the Liquor Commission owed or did owe last June 30th to the State for profits it had earned and not lapsed. The Governor has provided in his suggestion for ways and means whereby the Liquor Commission can pay into the general fund its profits as it earns them and not accumulate them in the form of liquor.

Miss LAUGHLIN: Isn't it true that the Sinking Fund is an available asset that can be used and not liquor or other things in a warehouse?

Mr. WILKINSON: That is not a common terminology for commercial practice.

Mr. McGILLICUDDY of Houlton: Mr. Chairman, I wonder if there is a confusion of accounting terms or is there such a thing as a Sinking Fund Reserve and another thing such as a Sinking Fund? I have a vague idea that the Sinking Fund Reserve, as the gentleman has explained, is an accounting term for liabilities over assets, but the Sinking Fund, so called, is a case where a subdivision of the government yearly sets away a certain portion of the money it receives into a depository until it accumulates to a certain point, for the purpose of retiring bonds. I wonder if there was the possibility of confusion of the Sinking Fund and the Sinking Fund Reserve when the gentleman spoke before. I think the Sinking Fund should be all cash. Is there such a technical difference?

Mr. WILKINSON: My understanding of the terms "Sinking Fund Reserve" as commonly used, where it is used, it would represent the liability for some cash or securities that had been put aside for a specific purpose, and you would have on one side of the balance sheet the sinking fund assets and on the other side the sinking fund reserve, such as we have on this balance sheet for your trust funds. The trust fund assets appear on one side and the reserves for the trust fund on the other side, both in the same amount. Now I believe ordinarily you would expect the term "Sinking Fund Reserve" meant assets put aside for sinking fund purposes. It has never meant that in the accounting of the State of Maine insofar as I can determine. It has merely meant the balance that was closed out at the end of the year

from appropriation accounts. It has been the net worth account of the State. There has nothing ever been set aside in cash to represent the Sinking Fund Reserve.

Mr. MCGILLICUDDY: It is just like putting money away in the bank?

Mr. WILKINSON: I think this is the case—and I may be wrong—because, after all, a balance sheet represents very largely the opinion of the person who prepared it. In the present conception of accounting—and I may be wrong in my understanding of the character of these accounts—but the way it has been treated on the books, the way it has been treated in the published statements of the State of Maine which were made in the published statements as to the character of the Sinking Fund Reserve, it has meant nothing more to me than the surplus account of a corporation representing the difference between the total assets and total liabilities.

Mr. MCGILLICUDDY: I wonder if there is such a thing as a dictionary term. I mean the general practice, not the practice of the State. I wonder if there is a difference between Sinking Fund and Sinking Fund Reserve, whether the two may have been confused. Is there such a thing as a standard dictionary term?

Mr. WILKINSON: It is quite possible I could find a dictionary term. I think it is more likely I could find two or three definitions for you, because there is not an entire agreement among accountants as to the exact meaning of accounting terms that are used both in corporation practice and public practice.

Mr. MAHON of Ellsworth: I would like to ask the gentleman a question.

Can you inform me what the State owed as of June 30, 1939 on the 1937 deficiency account?

Mr. WILKINSON: I didn't quite get the question.

Mr. MAHON: I would like to have information as to what the State owed on June 30, 1939 on the 1937 deficiency account.

Mr. WILKINSON: \$1,092,111.29.

Mr. MAHON: That is what we owed—is that right?

Mr. WILKINSON: It means that part of that deficiency of \$2,044,000.—00 which had not been cleared by the application of the proceeds of the special beer tax.

Mr. MAHON: Can you explain to me why you enter that amount as an asset?

Mr. WILKINSON: We don't. It is not carried as an asset. It is carried on the liability side of the balance sheet in brackets, indicating it should be deducted from the \$1,-817,000.00.

Mr. MAHON: Well, you said this \$1,817,000.00 represented the difference between assets and liabilities. Did I understand that right?

Mr. WILKINSON: The Sinking Fund Reserve does. As I explained previously, in order to arrive at the correct net worth you have to take those three amounts into consideration, \$1,817,000.00, the \$300,000.00, and the \$1,092,000.00. As I stated, the result of that is \$1,025,000.00 of profit, which we think is the approximate net worth of the State as of that date without our unrecognized assets.

Mr. COWAN of Portland: Turning to Page 56, "Surplus, Earned Subsequent to June 30, 1935, \$336,-059.68"—does that represent cash?

The CHAIRMAN: Will the gentleman restate his question?

Mr. MAHON: The second item on Page 56 on the liabilities to surplus of the Liquor Commission, earned subsequent to June 30, 1935, not lapsed to general funds, \$336,-059.68—is that represented by cash?

Mr. WILKINSON: Only partly by cash.

Mr. MAHON: And how else?

Mr. WILKINSON: By inventory, principally.

Mr. MAHON: Can you give us any idea how much of it is cash?

Mr. WILKINSON: Yes, it appears right there on that same page, \$82,559.92.

Mr. LAMBERT of Lewiston: Mr. Chairman, I would like to know if the gentleman from the Auditor's Office can tell me anywhere that I could find out how much, if it was ever found, the expenses were of the Auditors from the Controller's Office charged to the Liquor Commission? In other words, were there any expenses incurred by the Auditor's office of the Controller's office, ever charged to the Liquor Commission?

Mr. WILKINSON: There was an entry every month charging the Liquor Commission for the accounting services rendered by Mr. Berry and his assistants in Mr. Runnells' office in keeping the books of the Liquor Commission, but there was no cash passed in that connection.

It was just a journal entry made on the books.

Mr. LAMBERT: That would be in this Commission's records?

Mr. WILKINSON: We checked this very carefully. They were all handed by journal entries every month regularly.

Mr. LAMBERT: I mean in your report.

Mr. WILKINSON: That charge is included, of course, in the expenses of the Liquor Commission which are itemized to some extent on page 58. You will notice, under departmental expenses, the item of auditing \$10,229.67, then there is another one, Accounts and Control, \$42,363.66. The \$42,000.00, I believe, is the total of the journal entries which are made, crediting the Bureau of Accounts and Control and charging the Liquor Commission for all services rendered by the Bureau of Accounts and Control in keeping the accounts of the Liquor Commission, writing checks and so forth.

Mr. NOYES of Franklin: I would like to ask the gentleman a question. I am not going to ask about the Sinking Fund Reserve.

On Page 22 your budget balance shows \$96,265.13 and shows revenues of \$37,760,284.11?

Mr. WILKINSON: Right.

Mr. NOYES: I am not an accountant and I am not a lawyer. You show an itemized account of the expenditures of the various departments of State which shows \$38,415,000.00. Now the way I interpret that, you had a deficiency of \$452,000.00. I see there has been \$549,000.00 entered on the Sinking Fund Reserve. I do not understand the bookkeeping. Will you explain that to me?

Mr. WILKINSON: I think really the Legislature can explain that and not the accountant, because we are merely recording what the Legislature voted, and I am offering no opinion whatsoever as to whether that is a proper entry or whether it was a proper action for the Legislature to take, but they did vote \$549,000.00 to come out of the Sinking Fund Reserve, so we list all expenditures, and so much of it was appropriated by the Legislature out of the Sinking Fund. The balance has got to come out of this year's revenue.

Mr. NOYES: The fact is, we spent \$38,000,000.00?

Mr. WILKINSON: That is right.

Mr. NOYES: And we had revenues of \$37,760,000.00?

Mr. WILKINSON: That also is right. Yes, Sir.

Mr. DONAHUE of Biddeford: I believe the gentleman has stated that the transactions of the State include the issuance of approximately one million checks per year. I would like to ask the gentleman a question. Has the accounting firm of Ernst and Ernst checked the issuing of the million checks per year and determined whether or not the State of Maine had received value for the checks so issued?

Mr. WILKINSON: We have not.

Mr. DONAHUE: I would like to ask the gentleman another question, whether or not the firm of Ernst and Ernst has not conducted what is properly termed a "spot audit?"

Mr. WILKINSON: That is not the term that I would apply to it.

Mr. DONAHUE: And may I inquire of the gentleman what term he would apply to it?

Mr. WILKINSON: This examination has been made in accordance with the understanding of the American Institute of Accountants as to what used to be termed a "balance sheet audit." It consists of sampling. The American Institute of Accountants has taken the position that no examination can be made complete. It is not practicable and it is not reasonable. If you wanted to pay us to audit every expenditure by the State of Maine, I would tell you frankly I think it would be a waste of money and it would not be done by any accounting firm.

I was present at the convention of the American Institute in San Francisco last September when they had these questions of audit up for careful consideration because of a case which received considerable prominence in the papers early last year. There is a very definite understanding between accountants, at least, as to the limitations of our responsibility. We have to accept and do accept the internal checks and controls to the extent we think they are effective, and that is the reason I explained in the early part of my talk that we in this case had to decide within which areas we had to make our tests and checks. Obviously, if we came in here to audit every transaction in the State of Maine, we would have to have as much force to audit them as the State has to record them, and that is not practical or reasonable. So

our examination has been of the type generally accepted as a test check, accepting the audits received of the internal control insofar as we found them to be effective, and extending our work into those fields which we did not think were properly covered.

Mr. DONAHUE: I would like to ask the gentleman another question.

If it is not true that the borrowing power of the State of Maine prior to the time that the firm of Ernst and Ernst commenced its work on the books of the State of Maine has not been increased to the present time?

Mr. WILKINSON: Well, they have at least got \$26,000.00 that they didn't have when I came in. (Laughter)

Mr. DONAHUE: May I ask the gentleman another question?

Regardless of the action of the Legislature in 1937 in setting up a reported deficiency of approximately \$2,000,000.00, has the audit conducted by the firm of Ernst and Ernst arrived at a point under their basis of figuring the assets of the State of Maine on a cash value basis to determine whether or not on January 1st, 1937, there actually existed in the finances in the State of Maine a deficiency of more than \$2,000,000.00?

Mr. WILKINSON: We have made no examination as of January 1, 1937.

Mr. DONAHUE: May I not inquire through the Chair of the gentleman whether or not he has been directed by order of the Governor and Council to extend his audit back beyond the period of which I have inquired?

Mr. WILKINSON: We have, for certain specific purposes.

Mr. DONAHUE: Thank you.

Mr. McGILLICUDDY of Houlton: Mr. Chairman, I do not wish to ask a question, but I think that a confusion exists between the use of the terms "Sinking Fund" and "Sinking Fund Reserve." I went down to the State Library and got a book. I should like to read part of a page in this particular book by Roy B. Kester, Ph. D., Certified Public Accountant; Professor of Accounting, School of Business, Columbia University—chapter 26, page 579:

"DEFINITIONS. — A Sinking Fund may be defined as 'a fund formed by the investment of annual savings or other contributions with

a view to the ultimate application of the moneys so accumulated in the payment of a previously incurred... debt.' Usually the fund is not dependent solely for its increase upon interest accretions. As generally handled, the fund is added to at regular intervals by setting aside more or less regular amounts of assets to be applied to the same purpose. Usually the contract agreement entered into between the company and the creditors holding the debt to be repaid governs in detail the way in which the fund is to be provided and the way in which it is to be handled."

That is the one I am thinking of as the Sinking Fund. I quote again:

"A Sinking Fund may be used for other purposes than the payment of debt. Thus, occasionally one fund is created for the purpose of providing funds for the retirement of capital stock issues, notably preferred stocks of various kinds.

"Here also there is an unfortunate lack of uniformity in the use of the term. Thus, 'Sinking Fund' as an item in the balance sheet is found sometimes among the debits and sometimes among the credits. Other titles under which the item appears are: Sinking Fund Account, Sinking Fund Reserve, Sinking Fund Investments, Sinking Fund Trustee, and Sinking Fund Cash. In this chapter the term will be used to indicate assets set aside in a definite fund."

Mr. WILKINSON: That is what I had in mind when I said you might find any number of definitions. There is a lot of difference of opinion on the different use of those terms. They are not clear and distinct.

Mr. WHITNEY of Bangor: These figures we have been talking about I notice are just about eleven months' old—June 30th, 1939. On Page 3 of this report it is said that the Auditors are now engaged in the work of compiling data up to March 31, 1940 and that supplementary report will be rendered thereon. I wonder what time we can expect that report.

Mr. WILKINSON: That report will contain only the results of our investigation of the irregularities. It is not directed in any way whatsoever to the determination of the balance sheet compensating account.

Mr. MAXIM of Portland: I still think it is not entirely clear to many of us here the reason why, on Page 20, you include in the first

column under "Additions to the Sinking Fund Reserve" a deficiency account set up as of 1937 of approximately \$1,392,000.00. Will you explain the bookkeeping process by which this apparent liability appears against that account?

Mr. WILKINSON: I will try once more. If I assume the Legislature had voted to establish the 1937 deficiency at \$2,044,000.00, the account had been established on the books in accordance with the law, we would have had a result as we set it forth on page 12, and there would have appeared on the books as of June 30, 1939, a deficiency account of \$1,092,111.29, if the accounts of the State had been kept in accordance with the legislative act. The accounts had not been kept in accordance with that act. We have tried to give effect to what the Legislature said it wanted to do, so we have taken out of the Sinking Fund Reserve—I might express it that we have split it into two parts, that part which represented the deficiency carried forward, 1937, and which on the books had been charged to the Sinking Fund Reserve, we have taken that out and put it aside. That is what the 1937 deficiency was as of June 30, 1939. The balance is Sinking Fund Reserve as it would have been if the accounts had been kept in accordance with the legislative act. I do not know whether I have made it any clearer or not but that is another way of expressing it.

The CHAIRMAN: Are there further questions with regard to the audit?

Mr. DONAHUE: I would like to ask of the gentleman another question. Has the State any more spending power today than it had before the write-up of assets of the Sinking Fund by Ernst and Ernst, other than the \$26,000 recovered of Mr. Runnells?

Mr. WILKINSON: No.

Mr. BATES of Patten: Mr. Chairman, in rising I will say to the members of this honorable body that I realize that I am only a mere boy, not as well qualified as a good many of the other gentlemen are but I have had the pleasure, and I assure you, Mr. Chairman, it has been a pleasure, to serve my district in the last two sessions of this Legislature. In all of that time, Mr. Chairman, in all of those discussions—and I might say I have had the privilege of serving my town

as selectman, one of them rather, for quite a few years—in all of those times I have never dealt in personalities. I have listened for the past two days and a half to the various campaign speeches. I listened, Sir, the other afternoon, very patiently, and heard our good friend, and he is our good friend, Mr. Donahue, read one of the speeches of a gentleman who is a candidate for Governor. I sat in this seat, Sir, Number nine, and watched this gentleman who was in the gallery turn page for page as the address was being read. Now, to me, Sir, this is not a time to indulge in such tactics. In fact I am almost ashamed of those honorable gentlemen who would resort to such things.

I wish, Mr. Chairman, that we might get to the bottom of this terrible situation that we are now in. We cannot blame Lew Barrows, we cannot blame Governor Brann, we cannot blame Tudor Gardiner, we cannot blame those gentlemen for the various things that have been going on. After all, you realize that we as the Legislature elect an Auditor to go over those various accounts and report on them. I am utterly in accord with the judgment that both you, Mr. Chairman, and the Honorable Speaker of our House have used in appointing a committee. I do not believe that you could have done any better. I think, Mr. Chairman, that we should not let politics enter into it.

The CHAIRMAN: The Chair must remind the gentleman that the discussion is confined to the audit.

Mr. BATES: Mr. Chairman, is that deviating, referring to the audit, from the committee meeting?

The CHAIRMAN: The Chair believes that the call for the Convention does limit the discussion to the audit.

Mr. BATES: Mr. Chairman, I ask your humble pardon but may I say this, if it deals with the audit: Why has the Chairman allowed various other remarks to be entered?

Mr. BROWN of Eagle Lake: Mr. Chairman, I would like to ask you to turn to Page 14. These items that are marked here, are they for weeks or days? Do these represent weeks or days?

Mr. WILKINSON: Days.

Mr. BROWN: What do those figures represent?

Mr. WILKINSON: Those representative deposits which were made.

Mr. BROWN: What is the zero?

Mr. WILKINSON: There wasn't any deposit.

Mr. BROWN: How do you come to the conclusion that there were thirty-seven thousand on that date?

Mr. WILKINSON: Well, we tried to show it here. In the first place a record was made of all the plates issued through that Bureau and after this alleged robbery the auditing department of the State checked all the plates that had been shipped to the Auburn Bureau to see how they had been accounted for and they arrived at an amount of forty-three thousand dollars worth of plates for which the proceeds had not been turned in. By communicating with the owners of the cars to whom those plates had been issued they were successful in securing approximately eight thousand dollars from people who had paid for plates with a check and the check had not been presented. The balance of the people who responded to the inquiry claimed that they had paid cash, they had received their plates, received their ten day temporary permit, and paid in cash but the cash hadn't been deposited. Therefore we are assuming that it disappeared over that weekend.

Mr. BROWN: The day previous to that there were eight thousand one hundred and sixty-eight dollars and sixty cents paid in?

Mr. WILKINSON: Well, you would understand of course that we have been asked to do something which is almost impossible. Here is a disappearance of funds in 1938. Two years later we are asked as accountants to see what opinion we can form regarding that disappearance. We are not detectives. All we can work with are the accounting records. They had police, they had detectives and they had a State Auditor. Now, all we have done is to bring our accounting experience, such as it is, to these accounting records, which are available, to form our own opinion as to whether or not it was entirely reasonable to say that there was thirty-five or forty thousand dollars cash in that office over that week-end. Now, that is the opinion that we have come to as the result of our independent check of the records. We offer it only as our own opinion.

The CHAIRMAN: Are there fur-

ther questions with regard to the audit? If not, the purposes for which this Convention was formed having now been accomplished I declare the Convention dissolved and the Senators will return to their Chamber.

The Senate then retired to its chamber, amid the applause of the House, the members rising.

IN THE HOUSE

Called to order by the Speaker.

The SPEAKER: The matter before the House is the Joint Order which the Chair will ask the Clerk to read.

From the Senate:

Ordered, the House concurring, that when the Senate and House adjourn, they adjourn to meet Tuesday, May 28th, 1940, at three o'clock in the afternoon, E. S. T.

Comes from the Senate, read and passed.

In the House:

Mr. BATES of Patten: Mr. Speaker, may I ask a question regarding the Order? Will it be possible, and will it facilitate matters, to have us meet Tuesday afternoon or at any other date?

The SPEAKER: Is the gentleman addressing his question to any particular member?

Mr. BATES: If it be in order, Mr. Speaker, I would like to ask through the Chair of the gentleman from Berwick, Mr. Varney.

The SPEAKER: The gentleman from Berwick (Mr. Varney) may answer if he chooses.

Mr. VARNEY: Mr. Speaker, I would say it is my opinion that if the committees will advertise their matters that are now before them for hearing on Tuesday forenoon and early Tuesday afternoon and get some reports back before us by the Tuesday afternoon session, we will have plenty to do here Tuesday afternoon when we convene at four o'clock. That is my wish and I do not think that we should delay any beyond that time. I will also say that I do not think there is anything we could do before that time.

Mr. BATES: Mr. Speaker, do I understand that our investigating committee will have some reports to deliver to us at that time? May I ask that question of the gentleman from Berwick, Mr. Varney?

The SPEAKER: The gentleman

from Patten, Mr. Bates, asks a question through the Chair of the gentleman from Berwick, Mr. Varney. The gentleman may answer if he chooses.

Mr. VARNEY: I presume the gentleman from Patten (Mr. Bates) realizes that I am but one member of the committee. I might say, however, that I intended to announce, and I will do it now, that there will be a meeting of the committee immediately after the adjournment of this session. Whether or not you will have any report by next Tuesday of course depends on what action the committee takes and not upon what I personally do.

Mr. BATES: Mr. Speaker, may I thank the gentleman and may I also state that I appreciate the attitude he has taken through this session so far. I certainly do. To my mind he has been most fair in all things, and I still have the opinion that he always will be, but the way I feel —

Mr. VARNEY: Mr. Speaker, I rise to a point of order.

The SPEAKER: The gentleman may state his point of order.

Mr. VARNEY: Is there a motion before the House?

The SPEAKER: The question before the House is on the adoption of the order in concurrence. The Chair will remind the gentleman that debate at the present time should be confined to the Order. The gentleman may proceed in order.

Mr. BATES: Mr. Speaker, I move the Order be passed.

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

The motion prevailed and the Order received passage in concurrence.

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

Bill "An Act relating to Unemployment Compensation" (S. P. 715) (L. D. 1225).

Comes from the Senate referred to the Committee on Judiciary.

In the House, referred to the Committee on Judiciary in concurrence.

From the Senate: Bill "An Act to Permit Development of Mines in Maine" (S. P. 725) (L. D. 1224)

Comes from the Senate, received by unanimous consent and referred to the Committee on Mines and Mining.

The SPEAKER: This Bill, for its

admission, requires unanimous consent. Is there objection? The Chair hears objection.

Mr. EMERY of Bucksport: Mr. Speaker, may I have permission to give a word of explanation.

The SPEAKER: The gentleman from Bucksport, Mr. Emery, asks unanimous consent to address the House. Is there objection? The Chair hears none and the gentleman may proceed.

Mr. EMERY: Mr. Speaker, I would like to call your attention very briefly to this measure. There is a mine at Cape Rozier which, in the past, has been operated to some extent and a large amount of zinc and ore material has been taken from this mine. The last time it was operated was in 1929. At that time the refining conditions were not as efficient as they are today. Under existing conditions now and according to best reports, this property could be developed where it would be a valuable business. There are two particular reasons why I know this bill has been introduced at this time. The first is because the type of metal which would be mined under these circumstances has particular military significance, namely, zinc and copper. The second reason is that referring briefly to the Public Laws of 1935, legislation was passed whereby corporations were permitted to go on public lands in the State of Maine and mine. The act, as I understand, of the Legislature at that time was to convince the Government of any materials of this kind, but it did not go far enough because the particular development to which this refers lies below low water mark. The minerals which if found and of sufficient quality to warrant mining, are of military significance. I refer you again to the minerals zinc and copper. Second, there is a company all ready to make an investigation and spend approximately \$25,000 this summer in their preliminary survey to see if the property warrants development. At a regular session I think this would pass without much comment because it is good legislation and the State is certainly looking for new business and this is new business. The reason for its introduction at this time, its attempted introduction, was because if the company or companies which are interested in this property are permitted to go in there they will start operation immediately. I had a call

from Boston last night to see if there was any chance of anything being done, trying to get permission to start immediately. I simply call your attention to this proposition, the military significance of the minerals in question would have a direct bearing on the preparedness measure. Of course the State of Maine is extremely interested in new industry and in bringing money in from outside the State to develop our resources. Third, if this is a valuable piece of property and enough can be obtained working it, the State will get a five per cent return on the gross receipts. Thank you.

Mr. COWAN of Portland: Mr. Speaker, I withdraw my objection.

The SPEAKER: Under the joint closing order adopted yesterday, any Bill which requires unanimous consent for its admission to this House, having first been received in the Senate by unanimous consent, if that unanimous consent is refused, the bill is automatically referred to the 90th Legislature. The Chair understands that the gentleman from Bucksport, Mr. Emery, now asks unanimous consent to reconsider the referring of this bill to the 90th Legislature and that it be admitted at this time notwithstanding the joint closing order. Is there objection? The Chair hears objection and the Bill is automatically referred to the 90th Legislature.

From the Senate:

Resolve providing for a Recess Committee to Study Certain Industrial Accounting with respect to Unemployment Compensation, Social Security and Income Tax Laws (S. P. 722) (L. D. 1223)

Comes from the Senate, received by unanimous consent and referred to the Committee on Legal Affairs.

In the House:

The SPEAKER: This Resolve re-

quires for its admission to the House at this time unanimous consent. Is there any objection? The Chair hears objection and the Resolve is automatically referred to the 90th Legislature.

From the Senate:

Bill "An Act Amending the Law Relating to Guaranty of Titles of Motor Vehicles" (S. P. 719)

Comes from the Senate referred to the Committee on Motor Vehicles.

In the House, referred to the Committee on Motor Vehicles in concurrence.

From the Senate:

Resolve in favor of the City of Lewiston (S. P. 726)

Comes from the Senate, referred to the Committee on Appropriations and Financial Affairs.

In the House, a viva voce vote on reference in concurrence was doubted, and the Resolve in its entirety was read by the Clerk.

A division of the House was had, Seventy voting in the affirmative and none in the negative, the Resolve was referred to the Committee on Appropriations and Financial Affairs in concurrence.

From the Senate:

Resolve in favor of Bates College (S. P. 727)

Comes from the Senate, referred to the Committee on Appropriations and Financial Affairs.

In the House, the Resolve in its entirety read by the Clerk.

A viva voce vote being taken, the Resolve was referred to the Committee on Appropriations and Financial Affairs in concurrence.

On motion by Mr. Varney of Berwick,

Adjourned until Tuesday afternoon, May 28th, at three o'clock, Eastern Standard Time.