

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Legislative Record

OF THE

Eighty-ninth Legislature

OF THE

State of Maine

SPECIAL SESSION

1940

KENNEBEC JOURNAL PRINT SHOP
AUGUSTA, MAINE

HOUSE

Tuesday, June 4, 1940.

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

Prayer by the Rev. Dr. Wood of Augusta.

Journal of the previous session read and approved.

Mr. VARNEY of Berwick: Mr. Speaker, I move that the rules be suspended in order to permit me to introduce out of order at this time a Resolve on the Payroll of the House of Representatives.

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

Thereupon, the rules were suspended and the Resolve was introduced.

The SPEAKER: The Clerk will read the title of the Resolve.

Resolve on the Payrolls of the House of Representatives (H. P. 2268)

On further motion by Mr. Varney, under suspension of the rules, the Resolve was given its two several readings, passed to be engrossed and sent up for concurrence.

Passed To Be Enacted (Emergency Measure)

An Act Repealing the Law requiring Guaranty of Titles of Motor Vehicles (H. P. 2257) (L. D. 1219)

The SPEAKER: This being an emergency measure, it requires for its passage the affirmative vote of two-thirds of the entire elected membership of the House. All those in favor of the passage of this Bill to be enacted 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. Eighty-eight voted in the affirmative and none in the negative.

Mr. VARNEY of Berwick: Mr. Speaker, I request that the vote be taken by the roll call.

The SPEAKER: The gentleman from Berwick, Mr. Varney, asks that the vote be taken by the yeas and nays. In order for the Chair to entertain this motion requires the affirmative consent of one-fifth of the members present. All those in favor of the vote being taken by the

yeas and nays 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.

The SPEAKER: Obviously more than one-fifth of the members having arisen, the vote will be taken by the yeas and nays.

On motion by Mr. Varney, the Bill was tabled pending enactment.

Passed To Be Enacted

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

An Act Amending the Farm Lands Loan Act (H. P. 2255) (L. D. 1217)

Finally Passed

Resolve in favor of the city of Lewiston (S. P. 726) (L. D. 1228)

Resolve in favor of Bates College (S. P. 727) (L. D. 1229)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, Bills passed to be enacted, Resolves finally passed, all signed by the Speaker and sent to the Senate.

On motion by Mr. Hinman of Skowhegan, under suspension of the rules, the House voted to reconsider its action whereby it passed to be engrossed Bill "An Act relating to the Auditing of the Accounts of the State Liquor Commission (S. P. 708) (L. D. 1214)

Mr. Hinman then offered House Amendment "A" and moved its adoption.

House Amendment "A" to S. P. 708, L. D. 1214, Bill "An Act Relating to the Auditing of the Accounts of the State Liquor Commission".

Amend said Bill by inserting before the comma and after the word "commission" at the end of the 8th line thereof the words 'and the controller.'

Further amend said Bill by inserting before the word "audit," in the 9th line thereof, the word 'post.'

Thereupon House Amendment "A" was adopted and the Bill as amended was passed to be engrossed in non-concurrence and sent up for concurrence.

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

From the Senate:

Resolve on the Payrolls of the Senate (S. P. 744)

Comes from the Senate, in that body, under suspension of the rules, read twice and passed to be engrossed without reference to a committee.

In the House, under suspension of the rules the Resolve was given its two several readings and passed to be engrossed in concurrence without reference to a committee.

Orders of the Day

The SPEAKER: Is there any business to come before the House under Orders of the Day? The Chair will remind the members that the Senate is expected to arrive for Joint Convention promptly at nine o'clock standard time. The House will be at ease.

House at Ease

In accordance with a Resolution (S. P. 740) (L. D. 1236) passed by both branches of the Legislature providing for a Joint Convention for the purpose of considering the adoption of an address to the Governor for the removal from office of Belmont A. Smith, Treasurer of the State of Maine, the Senate came in and a Joint Convention was formed.

In Joint Convention

(The President of the Senate in the Chair)

The Convention was called to order by the President.

The Secretary called the roll:

Present: Senators Beckett, Boothby, Boucher, Burns, Chamberlain, Chase of Washington, Chase of Piscataquis, Cony, Dorr, Dow, Elliot, Findlen, Friend, Graves, Harkins, Hill, Kennedy, Laughlin, Lewis, Littlefield, Marden, Morse, Owen, Sanborn, Spear, Thatcher, Tompkins, Wentworth, Worthen.

Representatives: Arzonico, Ayotte, Bacon, Barter, Batchelder, Bates, Belanger, Bird, Bolduc, Bragdon, Brown of Caribou, Brown of Corinna, Brown of Eagle Lake, Bubar, Burbank, Burgess of Limestone, Buzzell, Chandler, Churchill, Cleaves, Clough, Cook, Cowan, Crockett, Cushing, Davis, Dean, DeBeck, Dennison, Donahue, Dorsey, Douglass, Dow of Eliot, Dow of Kennebunkport, Dow of Norway, Downs, Dwinal, Eddy, Ellis, Emery, Erswell, Farwell, Fernald, Ford, Fowles, Good, Goss, Grua, Hall, Hanold, Haskell, Hawes, Hildreth, Hinckley, Hinman, Hodgkins, Holden, Holman, Howes, Hussey, Jewett, Jordan, Keene, Labbee, LaFleur, Lambert,

Larrabee, Latno, Leveque, Lord, Luro, MacNichol, Mahon, Marshall, Maxim, McGillicuddy, McGlauffin, McNamara, Melanson, Mercier, Merrifield, Meserve, Miller, Mills, Murchie, Noyes, Otto, Palmeter, Paul, Payson, Peakes, Pelletier, Philbrick, Plummer, Porell, Poulin of Rumford, Poulin of Waterville, Pratt, Preble, Race, Richardson, Robbins, Robie, Robinson of Bingham, Robinson of Peru, Robinson of South Portland, Shesong, Sleeper, Slosberg, Smith of Thomaston, Smith of Westbrook, Snow of Dover-Foxcroft, Snow of Hermon, Stacy, Starrett, Stilphen, Sylvia, Tardif, Thompson, Townsend, Varney, Viollette, Walker, Wallace, Weed, Weatherbee, Whitney, Williams, Winslow, Winter, Worth, Young of Acton.

Absent: Representatives: Babin, Butler, Dorrance, Everett, Fogg, Norwood, Pike of Lubec, Ramsdell, Stevens, Welch.

The Chairman: The Secretary will read the Joint Resolution containing the charges as spread upon the Journal together with the return of service executed thereupon.

The Secretary read the Joint Resolution as follows:

Joint Resolution in favor of Adoption of Address to the Governor and Council, for the Removal of Belmont A. Smith, Treasurer of the State of Maine.

BE IT RESOLVED, the House concurring, that both branches of the Legislature, after due notice given according to the Constitution of the State of Maine, proceed forthwith to consider the adoption of an Address to the Governor of Maine for the removal of Belmont A. Smith, Treasurer of the State of Maine, for causes as follows:

FIRST: For that the said Belmont A. Smith on the 4th day of January, 1937, and continuously from that date to the date of this Resolution has negligently failed in the performance of his duty by failing to use proper diligence in the endeavor to collect back taxes due the State of Maine, and

SECOND: For that the said Belmont A. Smith on the 4th day of January, 1937, and continuously from that date to the date of this Resolution has negligently failed in the performance of his duty by failing to use proper diligence in the attempting to collect amounts due the State of Maine in connection with checks made payable to the State

of Maine and protested for non-payment, and

THIRD: For that the said Belmont A. Smith on the 4th day of January, 1937, and continuously from that date to the date of this Resolution has neglected his statutory duty of reinvesting the trust funds of the State in a manner to conform to the provisions of the law, Section 86, Chapter 2, Revised Statutes of 1930, and

FOURTH: For that the said Belmont A. Smith on the 4th day of January, 1937, and continuously from that date to the date of this Resolution wilfully failed to perform the duties required of him as such Treasurer of State by failing properly to supervise the acts of his Deputy and other subordinates, whereby illegal and unauthorized practices were permitted to exist as follows:

(a) That no carbon copies of the books of receipts of sales by the State Highway Commission of tires and spare parts sold to employees and other persons were kept in the office of the Treasurer of State, contrary to the forms of said books of receipts and permitting remittances of said sales to be made to the former State Controller, William A. Runnells, contrary to the provisions of Section 15, Article 2, Chapter 216 of the Public Laws of 1931, causing a loss to the State of Maine of approximately thirty-one thousand dollars.

(b) That the said Belmont A. Smith negligently failed to supervise the acts of his Deputy, Louis H. Winship, whereby the latter cashed five checks aggregating at least three thousand dollars, said checks being payable to the order of the State Highway Commission for materials purchased from the garage after endorsement by the former State Controller.

(c) That the said Belmont A. Smith negligently failed to supervise the acts of his Deputy, Louis H. Winship, whereby the latter cashed ten checks since January 4, 1937, clearly without right, thereby depleting the cash of the State. That said acts of the said Louis H. Winship permitted the former State Controller to handle cash contrary to the provisions of the State Code.

(d) That the neglect of the said Belmont A. Smith to properly supervise the activities of his department permitted the cashing of interde-

partmental checks by William A. Runnells, former State Controller.

FIFTH: For that the said Belmont A. Smith on the 4th day of January, 1937, and continuously from that date to the date of this Resolution wilfully failed to perform the duties required of him as such Treasurer of State by allowing the deposit of sums of money belonging to the State of Maine in amounts in excess of twenty-five percent of the capital and surplus of the depository banks, to wit, in the cases of the Casco Bank and Trust Company at Bridgton, the Northern National Bank at Presque Isle, the Lincoln Trust Company at Lincoln, the Northern National Bank of Presque Isle at Mars Hill, the Millinocket Trust Company at Millinocket, the Newport Trust Company at Newport, the Norway National Bank at Norway, the Casco Bank and Trust Company at Portland.

SIXTH: For that the said Belmont A. Smith on the 4th day of January, 1937, and continuously from that date to the date of this Resolution neglected his duty of requiring that all State funds should be delivered by the department receiving the funds into the office of the State Treasurer.

AND BE IT FURTHER RESOLVED that, the House of Representatives concurring, these resolutions and statements of causes of removal be entered on the Journal of the Senate and a copy of the same be signed by the President of the Senate and served on said Belmont A. Smith by such person as the President of the Senate shall appoint for that purpose, who shall make said service upon his personal affidavit without delay, and that the 4th day of June, A. D. 1940, at nine o'clock in the forenoon, Eastern Standard Time, be assigned as the time when the said Belmont A. Smith may be admitted to a hearing hereon. (S. P. 740)

The Secretary then read the return of service as follows:

STATE OF MAINE

Penobscot, ss. May 24, 1940.

Pursuant to the provisions of the Joint Resolution of the Senate and House of Representatives of the State of Maine of which the within is a copy and by virtue of my appointment for this purpose by the Honorable Sumner Sewall, President of the Senate, I this day made service on Belmont A. Smith by giv-

ing him in hand at Bangor in the County of Penobscot at ten o'clock in the afternoon on said 29th day of May an attested copy thereof signed by the President of the Senate. (Signed) Roy S. Humphrey, Assistant Sergeant-at-Arms.

The CHAIRMAN: The Secretary will now read the rules of procedure adopted for this Convention together with the return of service thereon.

The Secretary read the rules of procedure as follows:

STATE OF MAINE

In Senate, May 29, 1940.

ORDERED, the House concurring, that the following rules of procedure be observed at the hearing proposed by a Joint Resolution of the two branches of the Legislature upon the alleged causes of removal in the case of Belmont A. Smith, Treasurer of State:

First: For the purpose of granting a joint hearing agreeably to a vote of the two branches of the Legislature, they will meet in Joint Convention in the Hall of the House of Representatives on Tuesday, the fourth day of June, A. D., 1940 at nine o'clock in the forenoon, E. S. T.

Second: The President of the Senate shall preside in Convention and in his absence or with his consent, the Speaker of the House may preside. Both, when present, shall hear and determine the questions of admissibility of testimony and other questions of law that may arise, and their judgment given by the one presiding, or by the other, at his request, shall be final and not subject to appeal.

Third: The presentation of the testimony in support of the charges shall be made by such counsel as may be designated by the Joint Standing Committee on Judiciary, and the Treasurer may be heard by himself and by counsel and witnesses.

Fourth: The Secretary of the Senate shall issue due subpoenas for the summoning of such witnesses as may be requested either by counsel for the proponents or for the Treasurer, and the same rules of evidence shall govern as in the trial of civil actions in the Superior Court. All depositions shall be taken forthwith, but no depositions shall be admitted unless it is shown that both parties had opportunity to be present and participate in its taking and that the deponent is unable to be present at the hearing. The presiding

officers shall decide all questions of the admissibility of evidence, procedure, practice and pleading, and from decisions given, in the manner provided in Rule Second, there shall be no appeal.

Fifth: No debate whatever shall be admitted in the Convention.

Sixth: No motion shall be admitted or entertained except to take a recess to a time certain or to dissolve the convention when such motion shall be decided without debate.

Seventh: No person shall be admitted to the floor of the House except members of the convention, counsel, witnesses, reporters of the press and the officers of both branches, except by order of the President of the Senate or Speaker of the House.

Eighth: Upon the convening of each session of the convention, the roll of both branches of the legislature shall be called, and no member of the convention shall leave the Hall during a session without permission from the presiding officer.

Ninth: BE IT FURTHER ORDERED, that a copy of this order be attested by the President of the Senate, and be served on Belmont A. Smith, by such person as the President of the Senate shall appoint for that purpose who shall make such service upon his personal affidavit without delay.

The Secretary read the return of service on the rules of procedure as follows:

STATE OF MAINE

Penobscot, ss: May 29, 1940

Pursuant to the provisions of the Joint Order of the Senate and House of Representatives of the State of Maine, of which the within is a copy, and by virtue of my appointment for this purpose by the Honorable Sumner Sewall, President of the Senate, I this day made service on Belmont A. Smith by giving him in hand at Bangor, in said County of Penobscot, at ten of the clock in the afternoon, on said twenty-ninth day of May, an attested copy thereof, signed by the President of the Senate.

(Signed) ROY S. HUMPHREY,
Assistant Sergeant at Arms.

The CHAIRMAN: The presiding officer wishes to announce that there will be a recess of ten minutes at the end of one hour and fifteen minutes from now.

Under authority of the Joint Resolution, I ask the Speaker of the House to preside at this time.

(The Speaker of the House in the Chair)

The CHAIRMAN: The presiding officer feels that he should remind the members, also the spectators, of the extreme importance of every question and every answer of the witnesses being audible, therefore it is requested that there be the utmost silence. The presiding officer would also request the press photographers not to take photographs during the actual taking of the testimony.

The CHAIRMAN: Are there appearances to be entered?

Mr. BROWN: I would request that the Secretary record the name of W. Scott Brown as attorney for the proponents.

Mr. GILLIN: Mr. Chairman, I would request that the name of James M. Gillen be entered as attorney for Belmont A. Smith. I have an answer to file.

The CHAIRMAN: The Secretary will enter the pleadings in the record. Would you like to have the pleadings read at this time?

Mr. BROWN: Mr. Chairman, I have never seen this answer. I would like to be accorded an opportunity to read it during the recess.

The CHAIRMAN: Do you have any objection to having it read at this time?

Mr. BROWN: No, Sir.

The CHAIRMAN: The Secretary will read the pleadings.

STATE OF MAINE

89th Legislature in
Special Session

Re: Consideration of an Address to the Governor and Council, for the removal of

BELMONT A. SMITH

Treasurer of State

ANSWER OF BELMONT A. SMITH

To the Honorable members of the Senate and House of Representatives of the 89th Legislature, in joint convention assembled.

Respectfully comes Belmont A. Smith, Treasurer of the State of Maine, and makes answer to the causes of removal set forth and contained in the joint resolution adopted by the Senate and House of Representatives on May 29, 1940, and says:

To the allegations in the said causes of removal contained in said resolution the said Belmont A. Smith enters a general denial.

By way of further answer and special matter of defense, the said

Belmont A. Smith alleges and avers as follows:

FIRST: That he has not negligently or otherwise failed in the performance of his duty by failing to use proper diligence in the endeavor to collect back taxes due the State of Maine, from the 4th day of January and continuously from that date to the date of said resolution, as set forth in the **FIRST** cause contained in said resolution.

SECOND: That he has not negligently or otherwise failed in the performance of his duty by failing to use proper diligence in the attempt to collect amounts due the State of Maine in connection with checks made payable to the State of Maine and protested for payment, on the 4th day of January, 1937 and continuously from that date to the date of said resolution, as set forth in the **SECOND** cause contained in said resolution.

THIRD: That he has not neglected his statutory duty of re-investing the trust funds of the State in a manner to conform to the provisions of Section 86, Chapter 2 of the Revised Statutes of 1930, on the 4th day of January 1937 and continuously from that date to the date of said resolution, as set forth in the **THIRD** cause contained in said resolution.

FOURTH: That he has not willfully or otherwise failed to perform the duties required of him as Treasurer of State by failing properly to supervise the acts of his deputy and other subordinates, on the 4th day of January 1937 and continuously from that date to the date of said resolution, as set forth in the **FOURTH** cause contained in said resolution.

FIFTH: That he has violated no duty imposed upon him by law in not keeping in the office of the Treasurer of State carbon copies of the books of receipts of sales by the State Highway Commission of tires and spare parts sold to employees and other persons; and he has violated no duties imposed upon him by law with respect to any remittances of such sales as may have been made to the former State Controller, William A. Runnells, in connection with which he had no duty; he has caused no loss to the State of Maine of any sum of money in connection therewith, as set forth in paragraph (a) of cause **FOURTH** contained in said resolution.

SIXTH: That he has violated no duty imposed upon him by law in the matter of supervising the acts of his deputy, Louis H. Winship; and had no knowledge, nor was he charged with knowledge by reason of the duties imposed upon him by law, that his deputy, Louis H. Winship cashed five checks which were payable to the order of the Highway Commission for materials purchased from the garage after endorsement by the former State Controller, as set forth in paragraph (b) of the **FOURTH** cause contained in said resolution.

SEVENTH: That he violated no duty imposed upon him by law in the matter of supervising the acts of his deputy Louis H. Winship, and had no knowledge, nor was he charged with knowledge by reason of the duties imposed upon him by law, that his deputy, Louis H. Winship cashed ten checks on January 4, 1937; and that he had no duty imposed upon him by law to supervise, direct, or control the acts of the former State Controller; all is set forth in paragraph (c) of the **FOURTH** cause contained in said petition.

EIGHTH: That with respect to the cashing of interdepartmental checks by William A. Runnells, former State Controller, he, the said Belmont A. Smith had no knowledge of the cashing of any such checks, nor was he charged with knowledge by reason of the duties imposed upon him by law that said checks were cashed, as set forth in paragraph (d) of cause **FOURTH** contained in said resolution.

NINTH: That he did not on the 4th of January, 1937, and continuously from that date to the date of said resolution, wilfully fail to perform the duties required of him as Treasurer of State in connection with depositing sums of money belonging to the State of Maine in certain banks and trust companies, as set forth in the **FIFTH** cause contained in said petition.

TENTH: That he did not on the 4th day of January, 1937, and continuously from that date to the date of said resolution, neglect any duty imposed on him by law in connection with requiring that all state funds should be delivered by the department receiving same into the office of the State Treasurer as set forth in the **SIXTH** cause contained in said petition, and the said Belmont A. Smith further alleges that

no such duty was imposed upon him by law.

BELMONT A. SMITH

By (Signed) James M. Gillin
(his attorney)

SCOTT BROWN, Attorney

Honorable members of this Convention, we are gathered here on a very solemn occasion to consider a very serious question; mainly as to whether or not this Convention shall adopt an address to the Governor of this State requesting the removal of a high public official. It is indeed a serious question. I might say at the outset that there is no question about the integrity of the present State Treasurer. In fairness to him, I think I should make that statement to you. From the investigation which I have been able to make there is no indication of dishonesty whatsoever. The contention is that if the present State Treasurer is guilty of anything it is neglect to perform the duties which were legally required of him. That is the contention of the proponents here, that here was a case of serious neglect on the part of the State Treasurer.

Now I would like to say to you at this time that too much time was not allowed for preparation of this case, either to the defense counsel or to myself. The matters which are involved are very intricate. There are many of them. It requires exhaustive research to go over all records involved in this matter and assimilate and digest them, and of course, there has not been sufficient time for that. I would like to have had sufficient time to marshal evidence in the case to present, as counts appear in the information, which of course could not be done. I am not stating this as an excuse for myself, but for this reason, that I would expect that you would be a little more patient with me under the circumstances than you would be if I had had more time. There are many witnesses, most of whom I have had no opportunity to talk with. There are only two, I think, with whom I have gone into the matter very thoroughly and most all information is based on files of Mr. Ingalls and the Attorney General, which, though very complete, have taken so much time to study that I have not had time to interview these witnesses, so just what they will say will be as new to me as to you, and if it had not been for the investigation al-

ready made by Mr. Ingalls and the Attorney General, I do not think it would have been possible for any attorney to have come in and presented anything to this body in the time allowed.

Now to come down to the matter at hand, I might run over each one of these counts and give you a general idea of what will be presented on the part of the proponents and what denial will be made.

The first count is, without reading verbatim, that the Treasurer neglected to collect back taxes, thereby violating his legal obligation. I will say in this connection that many taxes which showed up in the auditors' report, of which I could not possibly have the time to check on each individual one, but I have satisfied myself that of those reported in there the only ones of consequence are some 1933 bank taxes and railroad taxes, so I am not going to take up your time in showing all of the uncollected taxes because in my opinion, they are inconsequential other than those mentioned, and we would be here all summer. So far as the law is concerned, it provides the State Treasurer shall forthwith—which I suppose means immediately—bring an action of debt to collect unpaid taxes and we will show Mr. Smith made no attempt after he came into office to inform the Attorney General that these taxes were unpaid. Of course they were inherited by him and he could not have brought suit at the time the assessments were made. But it is my contention, under the laws of this State, the Treasurer is certainly obligated to finish the unfinished business of his predecessor. As far as the first count is concerned, I rely on the fact that Mr. Smith inherited uncollected taxes against banks and trust companies and railroads which he made no attempt to collect.

On the second count he is charged with neglecting to collect protested checks. The set-up was this, as far as the method of doing business in the State House was concerned: Checks would come in to the office of the Secretary of State for automobile registrations or to the Highway Department for something they had sold. The checks would then be deposited with the Treasurer's office and the Treasurer's office, as I understand it, would take them to the bank and deposit would be made, and of course, some came

back protested. The law provides that protested checks shall be turned over by the Treasurer to the Commissioner of Finance, I suppose meaning it would be up to the Commissioner of Finance to collect the protested checks turned over to him. The practice in the Treasurer's office was to take each one and send it back to the department in which it originated. If it was for the Highway Department it would go to that department and would be left for the Highway Department, as far as the Treasurer's office was concerned, for collection, but nevertheless on the books of the Treasurer's office it was carried as cash. From the amounts I have been furnished from the Treasurer's office there is about \$5600 worth of these protested checks, of which about \$2600 in round numbers occurred during the regime of the present Treasurer so that he has inherited about \$3000 of these protested checks and about \$2600 came into his hands or have arisen since he took office.

The third count in this information is that the Treasurer neglected to reinvest trust funds in accordance with the law. There is a decided dispute on the law between myself and the defense counsel. The law provides that the Treasurer shall invest only trust funds in bonds of all of the New England states, New York and Pennsylvania or in the bonds of the cities, towns and counties of these particular states, or may be deposited in a bank of this State or the United States on time deposit. It will appear here that Mr. Smith had charge of the investment of trust funds, that he assumed charge of the trust funds. If the information I have received is correct, no supporter in the office of the State Treasurer handled the trust fund account but it was a personal thing he took unto himself to look after. Now, I think it will appear that there have been few investments since Mr. Smith took office. He has been charged in the information with re-investing State funds, and here is a prime leading question on which defense counsel and myself do not agree. I say that under the law, the Treasurer of the State of Maine, if he has inherited a portfolio of securities of trust funds from his predecessor, is obligated to dispose of those securities and reinvest in securities which are legal. I think the defense counsel will say that he is only obligated to make

investment of the cash he has and not obligated to take the portfolio which he inherited from his predecessor and change those illegal investments into legal investments.

In the fourth count there are several items. One is that the State Treasurer is charged that no carbon copies of the receipts which originated from sales in the garage, in the highway garage, were recorded in the Treasurer's office and that the Treasurer was negligent in failing to so provide his supporters, whereby the funds that originated over in the garage were allowed to be turned over to the Controller's office instead of the Treasurer's. Now, your Code provides that the Treasurer shall receive all funds from different sources that each department has collected. Now there seems to be another dispute between defense counsel and myself as to what that means. The defense contend that all it means is that the Treasurer shall be there with his hands out, so to speak, and what money is brought in he shall take. I say the intent and purpose of that law is that the Treasurer of the State of Maine shall see to it that departments handling funds shall turn them in to him. I would not go so far as to contend, and you would not uphold me if I did contend, that if the Highway Department, for instance, receives \$5,000 and return \$4,500, he is obligated to run around and see if he got it all, but the Treasurer of State, knowing the Highway Department has an income and does take in money—the duty is upon him to see the money is turned in to him from the Highway Department. He should be aware of the fact that if he isn't getting a red cent, he should do something about it.

The set-up is this, as far as the garage is concerned: Over in the garage they sold tires, tubes and automobile accessories and I think perhaps steam shovels, outmoded, etc., and it was customary for the salesman to make out a slip of that purchase. They were made in triplicate. There were five. One went to the purchaser, one was supposed to go to the Treasurer's office, one was supposed to go to the Controller and one was supposed to stay in the garage, and one more which I cannot tell you about just now. Anyway, the sales were made and these slips were made. The men

who had charge of sales would periodically—I do not know as I can say how often, but anyway two or three times a week—take those cash receipts and checks with three of the slips to the Controller's office, he having received instructions from Mr. Runnells, the Controller, to deliver them to him personally. The person in the garage who had charge of delivering those always did deliver them personally to Mr. Runnells, except in a few isolated cases, when they were delivered to a Miss Kelley, who was private secretary to Mr. Runnells. That envelope was always sealed and there were always in the envelope the cash receipts with slips of each particular sale which had been made in the garage. Mr. Runnells took that sealed envelope and went into his inner office and closed the door and apparently no one was ever around when he was in there. Then it developed he would give a Miss Currier, who works for the Bureau of Accounts and Control, this envelope which would contain only checks and the slips to correspond with the checks. There was no cash to speak of except occasionally there would be a dollar or two, or a very small amount of cash, but usually she would deliver to Mr. Runnells this envelope with only the checks which she took into the Treasurer's office with an income sheet. Now, as I understand it, and this is what has made it difficult for me to understand the method of doing business, in view of the short time and all the facts in the case, but as I understand it, whenever a department, Highway or Liquor Commission or Secretary of State or any department made a deposit with the Treasurer's office the amount of that deposit was accompanied by an income sheet. On that income sheet appeared the department making the deposit, so that when an amount of money came into any department of the Treasurer's office, the Treasurer, by virtue of this income sheet, could credit the department which was entitled to credit.

Now over in the garage were filed all the slips of those individual sales which were tallied by the Auditor, and in the Treasurer's office were filed, as I understand it, the income sheets which showed the amount of money that was turned in from the Controller's office to the Treasurer's office on behalf of the

garage, and of course by subtracting that figure from the slips in the garage the total amount of the money lost between the garage and Runnells office and the Treasury is shown. I understand that the approximate amount was \$30,000 on that item since Mr. Smith took office.

Now, as was stated before, as far as the information is concerned, it is the contention of the proponent that Mr. Smith was obligated to do something when a department handling funds never turned in a cent to him. That is the real meat of this matter.

The next count against Mr. Smith is that the Treasurer failed to supervise the action of his deputy, Mr. Winship, whereby the latter cashed five checks of approximately \$3000, which checks were payable to the order of the State Highway Commission.

It seems to have been the practice that the State Highway Commission would have things to sell. Suppose, for instance, they owned a lot of road equipment, steam shovels and what not. Of course those things get worn out and they have to purchase new ones and they sell what they happen to have, as I understand it, to whoever wants to buy it or whatever they can get.

Now there are four checks which Mr. Runnells, the Controller, received and had in his possession, payable to the order of the State Highway Commission. Now Mr. Runnells took those checks personally, as I understand it, and carried them into the Treasurer's office and presented them to Mr. Winship, the Deputy, and received cash therefor. Mr. Winship having understood that an income sheet such as I have shown you would be filed and the cash returned with it. Now one condemnation of the Treasurer through the action of his Deputy in this particular matter is that he apparently failed to follow up the situation to see if Mr. Runnells did bring the cash in. After having delivered him the cash for the checks, apparently no effort was made to check Mr. Runnells again and see if the cash was returned. One of these checks is for \$166.46, one for \$1957.08, one for \$655.48, and one is \$577.57.

Now besides those four checks, somebody else, and I don't know who it was, apparently made a pur-

chase from the Highway Commission and to pay for it they sent a cashier's check on the Medomac National Bank for the sum of \$650, payable to the State Highway Commission. That check was taken and endorsed "State Highway Commission, by W. A. Runnells, Controller," the same as these four checks were endorsed—of course Runnells had absolutely no right to make that endorsement—and were taken in to Mr. Winship and cash was received for that check. Now these total approximately \$3000.

It is the contention of the proponents here that under this count Mr. Winship should have known that that endorsement was illegal, because he knew the Controller had no right to endorse State Highway Commission checks, and, in the second place, he knew or should have known he had no right to hand out cash in any way to the Controller. It will subsequently appear that this occurred with such frequent regularity that the acts of the Deputy Treasurer should have been known to Mr. Smith.

Now under the next count Mr. Smith is charged with permitting his deputy, Mr. Winship, to cash ten checks, thereby depleting the cash of the State, contrary to the provision of the State Code.

Now it will develop, as I understand it, that the Controller would report to Mr. Winship, the Deputy Treasurer, that he needed cash in his business because he was making some check-ups on the pay-roll here and there evidently was a little sleuthing being done and he did not want anyone around the State House to know who was doing the sleuthing, meaning, I suppose, it would decrease its effectiveness, that he needed some cash to pay these sleuths, so he would draw a check.

You understand that the Code provides that a warrant may be drawn by the Controller and when that is countersigned by the Treasurer it shall be a check and may be cashed by the payee therein named, it being the intent of this Legislature, it seems to me, when that statute was passed, that the Treasurer should have the control of the cash and he should have the final act in dispensing the cash, it being the intent to take all cash away from the Controller.

Now the way this has been handled—and the members of this Convention who have been here

more than I have will probably be more familiar with it than myself—but, as I understand it, there were machines that printed these checks, thousands and thousands of them were printed, and this machine contained the facsimile signature of both the Treasurer and the Controller, but the Controller had the machine and had control of the machine and printed checks as he wanted them, so, under that set-up there has been lost the control in the Treasurer to make the final disbursement which apparently the statute intended.

Now Mr. Runnells, the Controller, after having informed Mr. Winship that he wanted cash to make these spot check-ups, put a check through his machine payable to the Treasurer of State, and there would appear thereunder "Bureau of Accounts and Control" which I will refer to as the secondary payee. It meant that the Bureau of Accounts and Control was to be charged with that check, to be charged off to their department.

Now he would bring that check in to Mr. Winship. It states here "ten checks," but I think counsel will have no objection to my saying there are actually eleven. He would bring in those checks payable to Mr. Winship, Treasurer of State, and Mr. Winship would cash them and give Mr. Runnells the cash.

Now because he did deliver this cash in violation of the law, there would therefore be no charge in the Controller's office against the Bureau of Accounts and Control. There having been a disbursement on this check, there should have been a charge against the Bureau of Accounts and Control, because the money was apparently spent for that purpose, but there would not be such a charge because Mr. Runnells got the cash. What he did with the cash of course is no concern of ours in this particular proceeding, because we are only concerned with the fact that the Treasurer's office allowed the Controller to handle cash. Furthermore, he certainly had no right to cash a check payable to himself.

Now under (d) is practically the same situation. There are 23 checks which run over a period of time from September, 1937, to January, 1940. Mr. Runnells would come into the State Treasurer's office with checks, as I said before, to the amount of twenty-three. These

checks would be made payable to the Treasurer of State and under the designated secondary payee would be the Bureau of Accounts and Control. These checks would be accompanied by no income sheet of any kind. These checks would be cashed in the Treasurer's office without any endorsement and cash given to Mr. Runnells. Now against those checks there should have been a charge, if the business was done properly, in the Controller's office, against the Bureau of Accounts and Control. Against these twenty-three checks, if it had been done properly, there should have been a credit on the Treasurer's books to the Bureau of Accounts and Control.

Now those twenty-three checks amount to \$47,857.84. The ten checks amount to \$7,037.30. There is approximately \$54,000 on these particular checks, that is aside from the \$3000 on the Highway checks.

The fifth charge in this Resolution is that the Treasurer permitted the deposit of money to be made in banks in excess of the legal limitation. Now, the law as I remember it, is that the funds of the State deposited in the bank must not exceed 25% of that bank's capital stock and surplus assets, as far as this matter was concerned, it was subject to withdrawal on warrant by the Governor and Council.

Now, I haven't had time as yet, but I probably will before we get through, to go into this particular account with any degree of thoroughness but as I understand it from some information I got from the Banking Commissioner—and I haven't had much time to talk with him—there were deposits in the Casco Bank at Bridgton and Portland in sufficient amount so that there was in excess of \$73,000 if my information is correct. It is alleged in here that one of the banks in which there was an excessive deposit, was the bank at Presque Isle, from the information I have. There is alleged, from the information I have, that in the Lincoln Trust Company the deposits were in excess of \$35,000. There is the Millinocket Trust Company; from my information in excess of \$46,000. That is round numbers. Then there is the Eastport Trust Company, the Newport Trust Company in excess of \$17,000, the Norway National Bank in which there is no excess.

Now I haven't had an opportunity to check the kind of deposits these are and the intention with which they were made so I can't say to you at this time whether there is any meat in that count as far as a condemnation of the Treasurer is concerned.

I have stated as briefly as I could on each count the general scheme of the methods of operation in the Treasurer's office and generally what I conceive the law to be.

I will now call Mr. Winship to the stand.

LOUIS H. WINSHIP, Sworn

Direct Examination

(By Mr. Brown)

Q. What is your name?

A. Louis H. Winship.

Q. Mr. Winship, will you please speak as loudly as possible because unless you do you cannot be heard in the back of the room and of course if we are to get an impartial decision everybody must hear or otherwise they will be basing their decision on nothing whatsoever. Now, where do you live?

A. In Augusta.

Q. Were you formerly connected with the Treasurer's office in the State House?

A. Yes, sir.

Q. In what capacity?

A. Deputy State Treasurer.

Q. How long had you served in that capacity?

A. I have been connected with the Department since September 1913.

Q. And when did you cease to serve in that capacity, as Deputy Treasurer of the State, approximately?

A. Well, the day they asked me for my resignation. I don't remember just what date it was.

Q. Well, you have served since 1913 until a month or so ago?

A. Yes, sir.

Q. Was it the duty of the Treasurer's office to collect taxes assessed by the State Assessors?

A. Yes, sir.

Q. And are those assessments turned over to the Treasurer's office by the State Assessors?

A. They were.

Q. And do you keep a record of uncollected taxes as to the amounts, in the Treasurer's office?

A. Yes.

Q. Do you have a record of the uncollected bank taxes for the year 1933?

A. I think I have them right here. Yes, sir, here is a record of them here.

Q. In the amount of \$18,517.80?

A. Yes, sir.

Q. From your records, Mr. Winship, was a tax assessed for that year against the Casco Mercantile Trust Company?

A. Yes, sir.

Q. And what was the amount of that tax?

A. \$14,730.29.

Q. Was there a tax assessed against the Fidelity Trust Company?

A. Yes, sir.

Q. And was the amount of that tax \$28,483.02?

A. Yes, sir.

Q. Was there a tax for the year 1933 assessed against the Gardiner Trust Company?

A. Yes, sir.

Q. Was the amount of the tax, \$28,483.02?

A. At Gardiner?

Q. Yes.

A. No, sir; \$399.03, Gardiner Trust.

Q. Have we taken up the Fidelity Trust?

A. You have not; no.

Q. Was there a tax assessed against the Fidelity Trust Company for the year 1933?

A. Yes, sir.

Q. And the amount of that tax was \$28,483.02, wasn't it?

A. Yes, sir.

Q. Was there a tax assessed against the Gardiner Trust Company for the year 1933?

A. Yes, sir.

Q. And the amount of that tax was \$399.03?

A. Yes, sir.

Q. Was there a tax assessed against the Houlton Trust Company for that year?

A. Yes, sir.

Q. And the amount of that tax was \$773.30?

A. Yes, sir.

Q. Was there a tax assessed against the Maine Trust and Banking Company for that year?

A. Yes, sir.

Q. And the amount of that tax was \$1956.87?

A. Yes, sir.

Q. Was there assessed against the Security Trust Company a tax for that year?

A. Yes, sir.

Q. And did that amount to \$4878.86?

A. Yes, sir.

Q. Was there a tax assessed against the York County Trust Company for that year?

A. Yes, sir.

Q. And was the amount of that \$1600.39?

A. Yes, sir.

Q. And is the total of those approximately \$70,000?

A. Well, if you will put it on a piece of paper and add them up. It is stipulated and agreed that the total of those figures is \$71,339.56.

Q. Now have any of those taxes been collected, Mr. Winship?

A. No, sir; not that I know of.

Q. What was done by the Treasurer's office to attempt collection, if you know?

A. Recently it has been taken up with the various banks before Judge Hudson of the Supreme Court in Chambers. What the outcome of that is, I don't know because it was still in process when I got through with my position.

Q. Some of those banks are in the hands of a receiver, aren't they?

A. They all were at that time.

Q. Were any claims ever filed by the Treasurer's office against those banks?

A. Nothing more than the notices sent or the tax.

Q. There was never any claim filed with the Receiver in regard to those taxes?

A. Not that I know of.

Q. Was the Attorney General's office ever informed that these taxes remained uncollected?

A. Recently—

Mr. GILLIN: Might I suggest that you include in that question, if he knows?

Q. Do you know, Mr. Winship, whether during the period which Mr. Smith has been Treasurer of State that any information has been given to the Attorney General relative to those taxes?

A. Yes sir, he was, in this interview down at the Judge's office.

Q. How long ago was that?

A. Oh, two or three months ago, I believe.

Q. Was any information as to the tax situation in this particular matter which we have been discussing ever given to the Attorney General before it was abroad that there were difficulties in the Treasurer's office?

Mr. GILLIN: I don't like to object but I would like to have the

protection that the questions are legal.

The CHAIRMAN: You will have that protection.

Mr. GILLIN: Then I will not object but I wish you would withdraw that question.

Mr. BROWN: I will withdraw it. Q. And so far as you know, Mr. Winship, the first time that the Attorney General was approached with regard to these bank taxes which we have just discussed was two or three months ago?

A. The first that I knew. He may have spoken to him before then but I didn't know anything about it.

Q. Was there assessed in 1932 against the Bangor Savings Bank a tax of \$376.01?

A. How much did you say that was?

Q. \$376.01.

A. Bangor Savings Bank?

Q. Bangor Savings Bank in the year 1932.

A. No, that was a balance, I guess, wasn't it? That was the balance due. Assessment \$13,058.95 of which they paid \$12,682.99 leaving, I think, that balance due. There was a controversy between the bank officials and the State Assessors.

Q. Was there an uncollected tax in the year 1933 against the Bangor Savings Bank of \$392.78?

A. I believe the difference between the amount paid and the tax assessed.

Q. What was the amount of the total tax against the Bangor Savings Bank for the year 1933? A. \$13,437.28.

Q. What is the balance uncollected; I mean how much was paid?

A. \$13,044.50.

Q. Was there a tax, an uncollected tax for the year 1933, assessed against the Houlton Savings Bank?

A. Yes, sir.

Q. Is that the balance, or the whole tax?

A. The whole tax.

Q. What is the amount of the uncollected tax for that year?

A. \$1,154.84.

Q. Was there a tax assessed against that same bank for the year 1934?

A. You understand, Mr. Brown, those are in two parts.

Q. Pardon me, I did not understand.

A. They are in two parts: every six months on the savings banks. The first amount for the Houlton

Savings Bank is \$1,469.97. Is that what you have?

Q. I think these figures which I have are the totals.

A. One is \$1,469.97, and the other \$1,417.47.

Q. Are those taxes still uncollected?

A. Yes, sir.

Q. Was there assessed against the Houlton Savings Bank for the year 1935 a tax of \$833.74?

A. Yes, sir, for the first period.

Q. Has that been paid?

A. No, sir.

Q. When, if you know, was the Attorney General first informed as to those delinquencies?

A. I do not know.

The CHAIRMAN: Mr. Brown, does that cover one page of your questioning?

Mr. BROWN: I think so, unless I have some further notes.

The CHAIRMAN: If there is no objection, the Chair will declare a recess of ten minutes.

(Recess)

After Recess

The Conventor was called to order by the Chairman.

Mr. BROWN: Mr. Chairman, under these several counts in this information there are, of course, to be a duplication of witnesses. For instance, I may want Mr. Winship in the first count and may want him again in the fourth, and there may be intervening counts in which I would not call him. I do not feel, out of fairness to the Convention that I should take him from the first count when I am through and then jump to some other count, and I would like to reserve the right to call him back when I get to a matter in which he is to be a witness. I would like not to be precluded from so doing or from asking him questions on some matters on which he may have already testified if I learn some material has been left out.

Mr. GILLIN: I have no objection.

Mr. BROWN: For the sake of the order in which this evidence shall be presented, I had this idea that might be of assistance to the Convention and I will mention it now to Mr. Gillin. Would it not be possible and convenient on one particular count for you to take that up and not go into another count to

employ the same witness? For instance, I would use Mr. Winship in the first count and then later in the fourth count would use him again. Would you prefer to cross examine him on the first count before I go into the fourth? It would not make a bit of difference to me. My thought would be that the Convention might want to hear the cross examination on the matter in question.

Mr. GILLIN: That is agreeable to me.

The CHAIRMAN: If there is no objection, the presiding officers feel it might be helpful to conduct this in the manner the counsel suggests and take one charge at a time.

Mr. BROWN: It has been suggested by the Chair that when the Auditors' Report is used by examining counsel that the page be referred to so those in the Convention who have a copy may follow that. I have been using Page 54. I propose to ask a question involving a matter on Page 52.

(Examination of Mr. Winship resumed)

Q. Mr. Winship, from the Treasurer's Report of uncollected taxes does it appear that there is an uncollected tax for the year 1931 against the Lime Rock Railroad Company?

A. Yes, sir.

Q. Is the amount of uncollected tax \$1,563.63?

A. Yes, sir.

Q. Is there an uncollected tax against the same railroad for the year 1932?

A. Yes, sir.

Q. And is the amount of the tax \$663.62?

A. Yes, sir.

Q. Is there an uncollected tax against the same railroad for the year 1933?

A. Yes, sir.

Q. Is the amount of the uncollected tax \$354.98?

A. Yes, sir.

Q. Is there an uncollected tax against the same railroad for 1934 in the amount of \$394.63?

A. \$394.63, you state? Yes, sir.

Q. Is there an uncollected tax against the same railroad for the year 1935 of \$498.54?

A. Yes, sir.

Q. Is there an uncollected tax against the same railroad for the year 1936 of \$421.70?

A. Just a moment. It is in the other book. In 1936 you said \$431.70?

Q. Yes. Is that correct?

A. Yes, sir.

Q. Is there an uncollected tax against the same railroad for the year 1936 of \$679.52?

A. Yes, sir.

Q. Is there an uncollected tax against the same railroad for the year 1938 of \$776.34?

A. Yes, sir.

Q. Is there an uncollected tax against the same railroad for the year 1939 of \$413.02?

A. Yes, sir.

Mr. BROWN: It is stipulated and agreed that the total amount of uncollected taxes against the Lime Rock Railroad Company for each of the years from 1931 to 1939 is \$5,685.95.

The SPEAKER: You agree to that stipulation, Mr. Gillin?

Mr. GILLIN: Yes.

Q. (By Mr. Brown) Do you know, Mr. Winship, what efforts have been made by the Treasurer's office since the appointment of Mr. Smith—what efforts have been made to collect those taxes?

A. I know it has been discussed, but I don't know how far it has gone.

Q. Have they been discussed between you and Mr. Smith?

A. I have heard Mr. Smith discuss it with Mr. Holley.

Q. Mr. Holley?

A. Yes.

Q. Did you ever hear him discuss it with Mr. Burkett, the Attorney-General?

A. No, sir.

Q. Do you know whether or not he has ever discussed the collection of those taxes with Mr. Burkett?

A. I couldn't say so.

Q. Do you know of any attempts that have been made by he or his subordinates to collect them?

A. Nothing definite, no, sir.

Q. Mr. Winship, are you familiar with the legal duties of the Treasurer's office as prescribed by the Code?

A. Not entirely, no, sir. I never read that Code through.

Q. Did I understand you to say you never read the Code through?

A. No, I never have read the Code clear through.

Q. Have you ever studied the legal provisions in the Code which prescribe the duties of the Treasurer's office?

A. I don't just get that question.

Q. Have you ever studied the provisions in the Code which pre-

scribe the duties of the Treasurer's office?

A. Not particularly so, no sir.

Q. Did you ever have any discussions with Mr. Smith as to legal restrictions on the Treasurer's office provided in the Code or statutes?

A. No. We have been going right along since he came in as we did before.

Q. Did I understand you to say that so far as the business conduct of your office is concerned that it proceeded in the same way as it did before the Code?

A. Before he came in as Treasurer.

Q. Proceeded just the same?

A. Yes, sir.

Q. Did Mr. Smith require an inventory of the Treasurer's office when he assumed the duties of that office?

Mr. GILLIN: I might suggest to the Chair that is a leading question. An interrogation like that I prefer to be answered in general questions.

Q. (By Mr. Brown) Was anything done by Mr. Smith when he assumed office to familiarize himself with the business affairs transacted there?

Mr. GILLIN: I object to that.

Mr. BROWN: I will strike it out.

Q. (By Mr. Brown) Was anything done by Mr. Smith, if you know, when he assumed office, to familiarize himself with the duties of the different departments of that office?

Mr. GILLIN: I object to that. I would have no objection if the question was asked in this form: What, if he knows, are Mr. Smith's duties?

Q. (By Mr. Brown) What, if you know, did Mr. Smith do upon assuming office to familiarize himself with the duties and requirements of the office?

A. Well, that is a rather hard question to answer. He came in there and of course looked things over the same as anybody would go into a new office, and inquired into the various phases of it, but not to go into it very deeply at that time.

Q. How much time did he spend in the office?

A. Why, it would average better than two days a week.

Q. Two days a week?

A. I should say it would average that.

Q. Do you mean by that that he came into the Treasurer's office

twice a week and devoted the full day on those two occasions?

A. Well he put his time partly to the office and partly to other things he might have had in mind. I couldn't say as to his doings. You must understand our offices are separated and I was in one small office and there was an outside office, and what he might be doing out there was something I don't know about.

Q. You say, Mr. Winship, in your best judgment, he devoted about two days a week of his time to his duties in the Treasurer's office? Is that correct?

A. He was there at the Treasurer's office.

Q. Now do you mean by that that he was in the office several times a week, but the amount of time that he did devote to his duties in there would equal about two days a week, or do you mean that he spent the full part of two days in his office and wasn't there any other time?

A. Why, when he came in there he stayed until he departed for his home. When he came there he didn't go away and come back in the same week. He stayed there until he departed for his home.

Q. I am not trying to confuse you, Mr. Winship.

A. Not at all; but you make your questions a little dute hard for me to answer.

Q. What I mean is this: Did he spend the full part of two days a week in the office?

A. You mean stayed right in the office? He was in the building. A lot of things came up, he would go up and interview the Attorney-General or go up to the Bank Commissioner or into some other department. He would be in the building.

Q. Am I to understand this: That Mr. Smith devoted approximately two days a week to being around the State House attending to the duties of his office? Is that correct?

A. Yes. That is better. Yes, sir.

Cross Examination (By Mr. Gillin)

Q. That two days a week is more or less of a guess?

A. An average.

Q. It might average much more than that?

A. I think it would, when you take in the municipal finance stuff he would have to do outside.

Q. For instance, during the session of the Legislature he was here continually through the session?

A. Yes.

Q. And on this Municipal Board of Financing, that not only required considerable work here in Augusta but round about the State, attending to the difficulties of those towns which were in distress?

A. Yes, sir.

Q. So that even increasing your original estimate of two days a week as the time he spent in the State House to a larger figure, that figure in turn would be considerably increased if we are going to consider what attention he gave to his duties as Treasurer by all the time he spent out of Augusta?

A. I should say so.

Q. So that you have no opinion based on any recent review of the facts of the situation, whereby you could give the Legislature any very definite idea as to how much time he spent each year in the performance of his duties?

A. No, sir, I couldn't.

Q. Now is it a fact that when Mr. Smith became Treasurer he shall, we say, inherited an organization which had been functioning in that office for several years?

A. Yes, sir.

Q. And you were the head of that organization and you had been its head for several years?

A. Yes, sir.

Q. And how many people did that organization consist of?

A. Five besides myself.

Q. And what were the duties of those five?

A. One had the title of Chief Clerk and Cashier.

Q. Now did she handle the cash?

A. She handled the cash. The other one was Taxes and Assistant Cashier.

Q. Taxes and Assistant Cashier. And she, I suppose, devoted her time to the setting up of your tax books and assisting the cashier?

A. Yes, sir. Another one had the maturing bonds and coupons, which is quite a little job in itself.

Q. That is, one had to attend to the security accounts?

A. Yes, as they are sent up from the bank to be paid, and also to the distribution of the checks and so forth that came to us from the Controller's office to be sent out.

Q. That is, that girl had charge of sending out the checks to the various payees as those checks came

to the Treasury Department from the Controller's office?

A. Yes, sir.

Q. And, incidentally, all the checks that went out from the Treasury office were made out in the Controller's office?

A. Yes, all checks.

Q. Now what did the other one do?

A. Clerical work.

Q. And then you had another girl?

A. Two others doing miscellaneous work.

Q. And how long had that operative group been functioning?

A. 1932 to 1935.

Q. That same group of girls?

A. We have had one or two changes but the same number.

Q. How long before he came in there was it before there had been any change?

A. Well, it was changed in 1932 when the Code went into effect.

Q. And other than that it was the same personnel—

A. Prior to that time we made all of the checks in our office.

Q. I am trying to find out whether or no the same office force which Mr. Smith inaugurated when he came into office, the same office force had been there for several years before?

A. Yes, sir.

Q. And most of them, I understand, had been there since 1932 when the Code was inaugurated?

A. Well, they hadn't all been there since 1932.

Q. How many had been there?

A. I will have to stop and think.

Q. Was Mrs. Wheeler there?

A. Mrs. Wheeler was there.

Q. Well, that is unimportant and I will withdraw it.

A. I can't say just now. I don't remember those.

Q. Now, as I understand it, the Treasury Department is divided into two compartments; a main office where the office force did the work and an office where Mr. Smith attended to his duties.

A. I was in the office with Mr. Smith.

Q. And as I understand you, the functioning of that office force, the carrying on of the Treasury Department business, was as you had learned to carry it on before he came into office?

A. Yes, sir.

Q. Now, isn't it fair to say that the functions of that office were

generally divided thiswise: You and the subordinates under you had full charge, exclusive charge, of the bookkeeping, receiving, posting and routing out checks from the Controller's office and the receiving, bookkeeping and disbursing of such cash as was disbursed. That was done by you and your crew?

A. Yes, sir.

Q. And in those functions Mr. Smith had no personal part?

A. No, sir.

Q. And isn't it true that in the main his duties were these: To generally supervise the office, without checking any of the details of the various departments, to attend to the correspondence of importance, to contact such other departments of State as became necessary to perform his work in connection with the rather stressing tax situation throughout the State these past years with particular stress to the towns which came under the board on which he and Mr. Holley and the Auditor sat and generally to superintend the depositing of funds in the bank and the balances as they were fluctuating from time to time and to attend to the investment of the State's trust funds? Now, isn't that probably the scope of the functions and duties that Mr. Smith undertook to give his personal effort and attention to?

A. Yes, sir.

Q. Do you know that to be so?

A. I know it to be so; yes, sir.

Q. And could you give us an approximation of the number of checks that were issued by the Controller's department on which the Controller's machine stamped Mr. Smith's name, which came to your office and were routed out each year?

A. Well, as I understand it, there was in the neighborhood a year made. Some of them were sent out in blocks to certain departments.

Q. So that your approximation as to the number of checks which were sent through your office from the Controller's office with Mr. Smith's signature stamped on, was about a million a year?

A. I won't say that they all went through our office. Some of them went out in blocks from the Controller's office, but the larger number of them through our office.

Q. Can you approximate the amount?

A. Not handling them, I can't give an idea. Possibly one of the young lady clerks who did handle them might.

Q. Then I understand you that approximately the total number of checks which the Controller issued and put Mr. Smith's signature on in facsimile, part of which were routed through your department and part of which were through the Controller's office, was about a million a year?

A. Yes, sir.

Q. Now, can you give us any approximation of the number of checks that came into your office a year?

A. No, I couldn't. There were thousands and thousands of them.

Q. Can you give us an approximation of the volume of money that was expended by the State through the Treasury Department each year, paid out?

A. Well, that would be something that I would have to get from the records.

Q. Well, would you approximate it as high as forty or forty-five million dollars?

A. It would be in the neighborhood of that.

Q. Somewhere in the neighborhood of forty or forty-five million dollars?

A. I should say so; yes.

Q. Now, was it Mr. Smith's custom during the time he was in office to personally check any of these million checks or any part of them that went through the Treasury Department office which were issued in the Controller's office and on which his signature was placed in facsimile?

A. Not unless he was doing it out in the front office when I wasn't looking. It would be something I wouldn't know about.

Q. Generally that detail was at which total \$71,339: As I understand in 1933?

A. Yes, sir.

Q. And he apparently relied on the competency and adequacy of your attending to that?

A. He did; yes, sir.

Q. Now, with respect to these taxes and trust and banking companies which are uncollected and which total \$71,339. As I understand it those are the banks which had trouble and went into receivership in 1933?

A. Yes, sir.

Q. Now, all of these banks paid their taxes later, in 1934 and 1935?

A. Since they were reorganized?

Q. Yes. Are you familiar enough with this auditor's report so that you can refresh your recollection from it?

A. I think a number of those banks were reorganized, weren't they?

Q. Well, such taxes as have been assessed on those banks or their successors from the year 1933 have been paid each year? Is that correct?

A. I assume so. I haven't looked at the records.

Q. I am referring now to Page 54.

A. Naturally the Augusta Trust Company—there wouldn't be anything on that because it went into the Depositors Trust Company. The Casco Mercantile Trust Company went into the Casco Bank and the Fidelity Trust Company is the National Bank of Commerce. The Gardiner Trust Company, I think, went out of existence entirely, didn't it, or was that taken over by the Depositors as a branch? The Maine Trust and Banking Company—either one of those were taken over. I don't know which.

Q. Well, I will withdraw any request for further answer to that question. Now, turning to the Savings Bank taxes on Page 54, the delinquencies of the Bangor Savings Bank for the year 1932 were \$376 and for 1933 were \$392 as I understand it, in each of those years and the tax that had been assessed against that bank was in excess of \$13,000. Is that correct?

A. It was the full amount. I can't say just how much it was. The same as we read out to Mr. Brown.

Q. And you read out that each year the bank paid or there was collected from that bank a tax in excess of \$13,000 less this figure?

A. Less the amount they paid.

Q. This was the figure which was disputed? A. Yes, sir.

Q. Now, in your tax books did you mark those accounts paid in full?

A. No, sir.

Q. That is, you still carry that disputed balance?

A. Yes. There was a question in regard to it between the assessors and the officials of the savings bank.

Q. But since 1933 the Bangor Savings Bank has annually paid its tax in full?

A. Since 1933?

Q. If you will refer to the report.

A. I don't know just when that controversy started, I am sure.

Q. Well, why don't you refer to the auditors' report on Page 54, if you accept the figures on that page of the report? That is at the bottom the second heading from the bottom of the page, "Tax on Savings Banks." Look down the page. The third heading. "Tax on Savings Banks."

A. \$768.79.

Q. Now, I ask you again, the Bangor Savings Bank has paid this complete tax from 1934 up to and including 1939, hasn't it?

A. From this record, yes, sir.

Q. Well, do you accept that record? A. I think I should; yes, sir.

Q. Now, the Houlton Savings Bank has paid all its axes from 1936 to date, hasn't it, up to and including the assessment for 1939?

A. I should say from this record, yes, sir.

Q. And you accept that as being correct? A. Yes, sir.

Q. So that so far as the collections of the taxes on those banks which have been assessed in Mr. Smith's term, they have been collected?

A. Yes, sir.

Q. And was the Houlton Trust Company one of those Aroostook County banks that had some difficulty, if you know?

A. I think it was; yes, sir. That was reorganized.

Q. Do you know when? A. No, not exactly when.

Q. Now, this Lime Rock Railroad; do you know where that is?

A. Down Rockland way, I believe.

Q. Is it operating?

A. I can't say. I don't know anything about it at all.

Q. As I understand it the tax bills have been sent to that railroad company?

A. From the time they have been assessed.

Q. Did you have occasion to go over the letter of Ernst and Ernst which is a preface to the schedule in this report of theirs? Have you had occasion to?

A. I don't think I have ever read it down through.

Q. Now, you state, as I understand it, that in connection with the taxes on this Lime Rock Rail-

road that you did know that Mr. Smith had discussed that situation with Mr. Holley, the Commissioner of Taxation?

A. I have heard them mention it in the office.

Q. What did they talk about?

A. That is something I couldn't say.

Q. How frequently?

A. I couldn't say, really, because those things occur off and on. I couldn't nail myself down to anything.

Q. And what, might I ask you, was the general attitude of yourself and the subordinates under you with respect to the general powers of State Controller Runnells?

A. We did just as he told us to.

Mr. BROWN: Mr. Chairman, I would like to have that question read.

(Question read)

Mr. BROWN: I shall object to that. It seems to me that it is immaterial what his attitude was. The law provides the duties of the Treasurer and the duties of the Controller. Now, as to the attitude which he may have had in regard to them, it seems to me it is immaterial.

Mr. JILLIN: Well, if you object to it I will withdraw it.

Mr. BROWN: I don't want to try to exclude any of the facts which perhaps the Convention might like to consider even though in my opinion they might not be admissible. Out of fairness to the Treasurer I will withdraw my objection.

The CHAIRMAN: Proceed, Mr. Brown. The objection is withdrawn.

Q. I will repeat the question in substance as I asked it originally. What was the attitude of yourself and the other subordinate members of the Treasury Department as you observed them with respect to the power of Mr. Runnells, the State Controller, and his authority in connection with contacting or working with your department?

A. Well, we had to look to him for authority to do things so and so on anything when the question came up.

Q. Did you ever question the procedure as to whether he had complete authority for it?

A. No, because we wanted to comply with his rules of accounting.

Q. Isn't it a fact that he as Controller coming up from 1932, more or less broke in the various depart-

ments, including yours, with respect to general set-up, cash and check handling, and other mechanics and clerical detail?

A. Yes, sir.

Q. Whether or not it was the fact that you and, so far as you observed, the subordinate employees in that department, had complete confidence in the man's honesty?

A. Absolutely.

Mr. GILLIN: I would like to have reserved the same right with regard to asking questions in cross-examination, in view of the fact that this is broken up the way it is.

The CHAIRMAN: The Chair understands that has been so understood between counsel.

(Redirect Examination)

(By Mr. Brown)

Q. Did I understand you to say, Mr. Winship, that the same method, so far as possible, so far as the routine of the office was concerned, prevailed after Mr. Smith's incumbence that prevailed before, is that correct?

A. I don't know of any changes. I think it was the same.

Q. Mr. Smith made no changes, did he?

A. None of any importance that I know of.

Q. Did he ever make any study of the work program in the office, that is, did he ever attempt to find out the particular duties of the different assistants that were in there?

A. Why, I explained them to him when he first came in. After that at times he would be out around among them seeing what they were doing. I could hear him talking out there. I wasn't there at the time.

Q. Did you have any conferences with Mr. Smith in which you went over the routine of the office business and explained to him how things were progressing in the office?

A. Why, naturally, a number of times.

Mr. BROWN: Mr. Chairman, I think I will direct the evidence at the present time to (b) under the fourth count, which alleges that five checks were cashed by the Treasurer's office which were payable to the Highway Commission.

The CHAIRMAN: Does the Chair understand that you have completed your case as to the first charge?

Mr. BROWN: Probably, yes, except as I understand I have the reservation if I learn additional facts or anything develops which I am

not aware of at this time, I can put it in.

Mr. GILLIN: That is perfectly agreeable.

Mr. BROWN: Mr. Winship, all of the cash receipts from the different departments of the State Government are turned in at the Treasurer's office. are they not?

A. They are supposed to be on income blanks.

Q. That is, if the Highway Department or Secretary of State, or whatever department it may be, receives revenue, that department should turn that in directly to the Treasurer's office.

A. We would assume so.

Q. And, so far as you knew, that was the method which was followed in the conduct of the State's business?

A. The method followed by departments or institutions I should say.

Q. When cash was sent in to the Treasurer's office from any department, was it accompanied by any kind of invoice or voucher?

A. Any kind of what, please?

Q. Was it accompanied by what was known as an income sheet?

A. An income blank.

Q. An income blank?

A. Yes, sir.

Q. Now this income blank, what was the nature and purpose of it?

A. It would have instructions on it as to what account to credit with the amount shown thereon.

Q. For instance, if an income sheet with cash and checks came from the Department of State, it would appear thereon that some of that cash was acquired from the sale of registration plates, and it would appear that some of it was acquired from some other source, is that correct?

A. I don't think I get your question.

Q. When cash or checks which represent the receipts of a particular department are sent to the Treasurer's office, that cash, those receipts are accompanied by an income sheet, is that correct?

A. The cash would accompany the income blank. The cash or checks or whatever it was, to equal the amount shown on the income blank.

Q. That is what I am after now, Mr. Winship. Just what would appear on that income sheet?

A. Why, the amount to credit to a certain account.

Q. Would it be an aggregate amount? Would there just be an item on this income sheet, with the figures?

A. Lower down there would be the detail.

Q. That is what I am after; that would show how that particular department acquired these particular funds, is that correct?

A. I won't say that. It might be so much cash, so much in checks and so much in money orders, and so forth.

Q. When this cash and checks were deposited in your office, did you take the amount on the income sheet and credit it on your books to that particular department that sent it in?

A. Yes, sir.

Q. Did you know that the Controller is not entitled to handle cash in his department?

A. No, sir.

Q. You didn't know that?

A. No, sir.

Q. Did you know you were in your department not entitled to disburse cash?

A. I don't know quite what you mean by that.

Mr. GILLIN: I might ask counsel if he intends the question answered in that way.

Mr. BROWN: I suppose I refer to these exhibits as State's exhibits?

The CHAIRMAN: The nomenclature we have suggested is proponents.

(Exhibit 1—Proponents—marked)

Mr. BROWN: I show you Proponent's Exhibit 1 and ask you what it is?

Mr. WINSHIP: A check for \$166.46.

Q. Have you ever seen that check before?

A. Yes, sir.

Q. I did not hear your answer.

A. Yes, sir.

Q. Has that check been in your possession before?

A. I cashed it.

Q. Who brought it to you?

A. Mr. Runnells.

Q. When did you cash it—about when, do you know?

A. August 11th, — probably August 10th.

Q. 1939?

A. 1939, yes, sir.

(Proponent's Exhibit No. 1 admitted without objection)

Mr. BROWN: This is a check dated August 7, 1939, payable to the order of the State Highway Com-

mission in the sum of \$166.46, signed by Blaine S. Viles. The endorsement on the back appears to be State Highway Commission by W. A. Runnells.

Q. You say, Mr. Winship, that Mr. Runnells came to your office with this check, is that correct?

A. Your back was turned and I didn't get your question.

Q. You say that Mr. Runnells came to your office with that check, which is Proponent's Exhibit No. 1? Is that correct?

A. Yes, sir.

with it?

A. No, sir.

Q. He brought no income sheet at all?

A. He brought it in and requested me to cash it.

Q. And did you cash it?

A. I did.

Q. What he did with the cash you do not know?

A. No, sir.

Q. I show you Proponent's Exhibit No. 2 and ask you if you ever saw that check before?

A. Yes, sir.

Q. Was that a check which was brought to you by Mr. Runnells to cash?

A. It was. Yes, sir.

Q. Was it accompanied by an income sheet?

A. No, sir.

Q. I show you Exhibit No. 3 and ask if you have seen it?

A. Yes, sir.

Q. Was it brought in by Mr. Runnells?

A. Yes, sir.

Q. You cashed it for him?

A. Yes, sir.

Q. Out of State funds?

A. Yes, sir.

Q. I show you Proponent's Exhibit No. 4 and ask if it is a check presented by Mr. Runnells and you gave him State funds?

A. It is the same case. At his request, yes sir.

Q. And were any of these checks accompanied by an income sheet?

A. Not when they came in to be cashed, they would not be accompanied by an income sheet.

Q. There never was any credit on the accounts in your office of those funds to the State Highway Department?

A. No, sir.

Q. The State Highway Department never received any credit?

A. Not as far as I know, unless the cash was applied to it.

Q. Were you of the opinion, Mr. Winship, that Mr. Runnells had authority to endorse checks for the State Highway Commission?

A. I assumed he did have authority because it had been going on for some time. His name was on most of the Highway checks.

Q. Did you ever make any attempt to find out whether he had that authority?

A. No sir, I never questioned his actions.

(Proponent's Exhibits No. 2, 3 and 4 admitted without objection)

Mr. BROWN: Proponent's Exhibit No. 2 is a check made payable to the State Highway Commission drawn on the Depositors Trust Company by Blaine S. Viles. These checks which I have just introduced are all checks of Blaine S. Viles so I will give you amounts and dates. One is June 30, 1939, in the amount of \$655.40. One is June 7, 1939, in the amount of \$166.46. One is January 23, 1939, \$957.80 and one is December 8, 1939, \$577.57. All are endorsed State Highway Commission by W. A. Runnells.

Q. I show you a photostatic copy of a check and ask you if you have ever seen its original?

A. Not to my knowledge but evidently it was cashed in the office because it has our stamp and I might have cashed it.

Q. Did anyone in your office ever cash checks for Mr. Runnells other than yourself?

A. Not that I know of.

Q. If a check was cashed in the Treasurer's office by Mr. Runnells would you state it was cashed by you?

A. I think it would be safe to say that I cashed it.

Q. From the stamp on that check and the endorsement as it appears on the back of the check would you say you cashed that check for Mr. Runnells?

A. I think it would be fair to assume so.

The CHAIRMAN: For the sake of the record, has this check been identified?

Mr. BROWN: I was trying to establish that he knew what it was about.

The CHAIRMAN: My meaning is, have you given the stenographer a number? If so, do you care to state the number?

Mr. BROWN: It is Proponent's Exhibit No. 5. I intended to as soon as it was admitted, if it is admitted.

(Proponent's Exhibit No. 5 offered and admitted without objection)

Q. Do I understand you to say, Mr. Winship, that Proponent's Exhibit No. 5 was cashed by you for Mr. Runnells?

A. I should say so, only I do not have recollection of it but the marks on it would make me assume I did cash it.

Q. When the check was brought to you by Mr. Runnells, would it be accompanied by an income sheet?

Mr. GILLIN: I object. The witness having no recollection of having cashed it, you are asking about when Mr. Runnells brought it to him.

(Question withdrawn)

Q. If Mr. Runnells brought a check to you payable to a State department and endorsed it and you cashed it, in any of those cases would the check be accompanied by an income sheet?

A. Certainly not.

Mr. BROWN: Proponent's Exhibit No. 5 is a cashier's check on the Medomak National Bank payable to the State Highway Commission in the sum of \$650.00. It is endorsed by the State Highway Commission by W. A. Runnells, Controller.

On motion by Mr. Spear of Cumberland.

Recessed until 1:25 P. M. Eastern Standard Time.

IN THE HOUSE

(After Recess—1:25 P. M.)

Called to order by the Speaker.

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

From the Senate:

Bill "An Act to Correct a Technical Error in the Unfair Sales Act" (S. P. 745) (L. D. 1238)

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

In the House, the Bill was received by unanimous consent and referred to the Committee on Judiciary in concurrence.

Finally Passed (Out of Order)

Resolve on the Pay Rolls of the Senate (S. P. 744)

Resolve on the Pay Rolls of the House of Representatives (H. P. 2268)

Were reported by the Committee on Engrossed Bills as truly and

strictly engrossed, finally passed, signed by the Speaker and sent to the Senate.

The following Communication:
(H. P. No. 2269)

**STATE OF MAINE
OFFICE OF THE ADJUTANT
GENERAL
AUGUSTA**

June 3, 1940.

To the Hon. Speaker of the House,
Maine Legislature,
State House,
Augusta, Maine.

In compliance with Order passed by the House and concurred in by the Senate of the Maine Legislature on May 28, 1940, directing the Adjutant General to report on the possibility and advisability of establishing in Maine a State or Home Guard, or such other means of military defense, as may recommend, the following is submitted:

State Forces for Home Service

It is proposed to establish initially if and when the existing National Guard of Maine is called or ordered into the Federal Service and when considered necessary by the Governor there will be organized certain State Forces for the maintenance of law and order within the confines of the State in accordance with the following:

Battalion Headquarters	Augusta
Hq. Co. (Consisting of Hq. Sec., Supply Plat., Communication Platoon)	Augusta
Rifle Company	Lewiston
Rifle Company	Portland
Rifle Company	Portland
Rifle Company	Bangor
Machine Gun Company	Lewiston

For the information of the Legislature it is desired to suggest that this is part of the State Mobilization Plan and has been in existence on file in the office of the Adjutant General for the past ten years and has recently been revised to bring it in line with present War Department policies.

It is desired to point out that this force is merely an initial force and can be increased and expanded at any time as occasion may require by order of the Governor and Commander in Chief.

However, the Legislature will understand that it is not believed feasible and in accordance with War Department policies and directives

to organize such a force for purely state protection, as long as active units now armed and trained are not ordered or called in the service of the United States. It is proposed to recruit these forces insofar as possible from ex-service men who have had previous military training but at the present time may be beyond the age limit for active service or otherwise disqualified by reason of age, physical defects or dependents from participating in the active armed forces of the United States.

Respectfully submitted,

(Signed) J. W. HANSON,

The Adjutant General.

The communication was read and placed in file and ordered sent up for concurrence.

Mr. Paul of Portland, out of order and under suspension of the rules, was granted unanimous consent to address the House.

Mr. PAUL: Mr. Speaker, I have received a communication from Mrs. Miriam S. Gyger, which I would like the privilege of reading in order that it may be spread on the records.

"My dear Mr. Paul:

I wish to acknowledge with deep appreciation the Resolution: on the death of Mr. Gyger which were adopted by the House of Representatives last Wednesday. I understood these were presented by you so I am addressing this letter to you and trust you will express, in the accepted and customary way, the children's and my thanks for this tribute to Mr. Gyger's character as a legislator. The welfare of the State was of great concern to him and his associations and associates in the Legislature were very highly prized.

Sincerely yours,

(Signed) MIRIAM S. GYGER

May twenty-eighth.

The SPEAKER: The House may be at ease pending arrival of the Senate.

House at Ease

At this point the Senate entered the hall, amid the applause of the House, the members rising, and a Joint Convention was formed.

In Convention

The CHAIRMAN: The Convention will be in order. The Secretary will call the roll.

Present: Senators Beckett, Boothby, Boucher, Burns, Chamberlain, Chase of Washington, Chase of Piscataquis, Cony, Dorr, Dow, Elliot, Findlen, Friend, Graves, Hill, Kennedy, Laughlin, Lewis, Littlefield, Marden, Morse, Owen, Sanborn, Sewall, Spear, Thatcher, Tompkins, Wentworth, Worthen.

Representatives: Arzonico, Ayotte, Babin, Bacon, Batchelder, Bates, Belanger, Bird, Boiduc, Bragdon, Brown of Caribou, Brown of Corinna, Brown of Eagle Lake, Bubar, Burbank, Burgess of Limestone, Butler, Buzzell, Chandler, Churchill, Cleaves, Clough, Cook of Lewiston, Cowan, Cushing, Davis, Dean, DeBeck, Dennison, Donahue, Dorsey, Douglass, Dow of Eliot, Dow of Kennebunkport, Dow of Norway, Downs, Dwinall, Eddy, Ellis, Emery, Erswell, Farwell, Fernald, Ford, Good, Goss, Grua, Hall, Hanold, Haskell, Hawes, Hildreth, Hinckley, Hinman, Hodgkins, Holden, Holman, Howes, Hussey, Jewett, Jordan, Keene, Labbe, LaFleur, Larrabee, Latno, Leveque, Luro, MacNichol, Mahon, Marshall, Maxim, McGillicuddy, McGlaflin, McNamara, Melanson, Merrifield, Meserve, Miller, Mills, Murchie, Noyes, Otto, Palmer, Paul, Payson, Peakes, Pelletier, Philbrick, Plummer, Porell, Poulin of Rumford, Poulin of Waterville, Pratt, Preble, Race, Richardson, Robbins, Robie, Robinson of Bingham, Robinson of Peru, Robinson of South Portland, Shesong, Sleeper, Slosberg, Smith of Thomaston, Smith of Westbrook, Snow of Dover-Foxcroft, Snow of Hermon, Stacy, Starrett, Stilphen, Sylvia, Tardif, Thompson, Townsend, Varney, Violette, Walker, Wallace, Weed, Weatherbee, Whitney, Williams, Winslow, Winter, Worth, Young of Acton.

Absent: Senators Cony and Harkins.

Representatives: Barter, Crockett, Everett, Fogg, Fowles, Lambert, Lord, Norwood, Pike of Lubec, Ramsdell, Stevens, Welch.

The CHAIRMAN: Are you ready to proceed, Mr. Brown?

Mr. BROWN: I would like at this time, Mr. Chairman, to stipulate in the record, with the consent of Mr. Gillin, which I have, the total amount of the five checks which were offered in evidence this morning.

IT IS STIPULATED and agreed that the total amount of Propo-

nents' exhibits numbers 1, 2, 3, 4 and 5 is \$3,007.31.

LOUIS H. WINSHIP, Recalled

Redirect Examination

(By Mr. Brown)

(Proponents' Exhibit No. 6, being a photostatic copy of a State of Maine Treasury Check for \$585., marked.)

Q. Mr. Winship, I show you Proponents' Exhibit No. 6 and ask what that is, if you know.

A. A state check made out to the Treasurer of State, care of the Controller.

Q. That is a photostatic copy?

A. Photostatic copy of check for \$585.

Q. And to whom is it payable?

A. To the Treasurer of State, care of the Controller.

Q. And will you tell this Convention just what became of that check from the time it was issued until it was deposited in the Depositors Trust Company?

A. It was cashed.

Q. Was it cashed by you?

A. Yes, sir.

Q. Who brought it in to you, if you know?

A. Mr. Runnells.

Q. And did you give him cash for that check??

A. I did.

Q. From the State Treasury?

A. Yes, sir.

(Proponents' Exhibit No. 7, being a photostatic copy of a State of Maine Treasury check for \$675., marked.)

Q. I show you Proponents' Exhibit No. 7 and ask you if that is a photostatic copy of a check on the Treasury of Maine?

A. It is.

Q. Did you ever see the original check?

A. Evidently, because it has been cashed in the office of the State Treasurer.

Q. Were any checks of this nature which were cashed in the State Treasurer's office ever cashed by anyone other than yourself?

A. I don't think so.

Q. And who presented that check to you to be cashed?

A. Mr. Runnells, undoubtedly.

Q. You gave him cash for that check?

A. I did.

Q. In the sum of \$675? Is that correct?

A. Yes, sir.

(Proponents' Exhibit No. 8, being a photostatic copy of a State of Maine Treasury check for \$465., marked.)

Q. I show you Proponents' Exhibit No. 8 and ask you if that is a photostatic copy of a State of Maine Treasury check?

A. It is.

Q. Did you ever see the original?

A. Evidently. The same answer as to the other one.

Q. It was brought to you by Mr. Runnells?

A. Yes, sir.

Q. And you cashed it?

A. I did.

Q. And you gave the cash to Mr. Runnells?

A. Yes, sir.

Q. That check was payable to the Treasurer of the State, was it?

A. Care of the Controller, same as the others; yes, sir.

Q. And the amount of that check is \$465?

A. Yes, sir.

(Proponents' Exhibit No. 9, being a photostatic copy of a State of Maine Treasury check for \$550, marked.)

Q. I show you Proponents' Exhibit No. 9 and ask you if that is a photostatic copy of a State of Maine Treasury check?

A. It is.

Q. Did you ever see the original?

A. The same conditions exactly as the other ones I have given.

Q. That was brought to you by Mr. Runnells and you gave him cash for it out of the State Treasury?

A. Yes, sir.

Q. And the amount is \$550?

A. \$550.

(Proponents' Exhibit No. 10, being a photostatic copy of a State of Maine Treasury check for \$485, marked.)

Q. I show you Proponents' Exhibit No. 10 and ask you if that is a photostatic copy of a Treasury check?

A. Exactly the same conditions as the other checks.

Q. And the amount of that check is \$485?

A. Yes, sir.

(Proponents' Exhibit No. 11, being a photostatic copy of a State of Maine Treasury check for \$791.43, marked.)

Q. I show you Proponents' Exhibit No. 11 and ask you if that is a photostatic copy of a check on the Treasury of Maine?

A. It is.

Q. Did you ever see the original?

A. Same conditions as the others, exactly. They are all alike.

Q. You gave Mr. Runnells the cash for the amount of that check?

A. \$791.43.

(Proponents' Exhibit No. 12, being a photostatic copy of a State of Maine Treasury check for \$735.47, marked.)

Q. I show you Proponents' Exhibit No. 12 and ask you if that is a photostatic copy of a check on the Maine Treasury?

A. It is.

Q. You cashed the original of that in the Treasurer's office?

A. Yes.

Q. And gave the cash to Mr. Runnells?

A. To Mr. Runnells on his presentation.

Q. And the amount of that is \$735.47?

A. Yes, sir.

(Proponents' Exhibit No. 13, being a photostatic copy of a State of Maine Treasury check for \$779.19, marked.)

Q. I show you Proponents' Exhibit No. 13 and ask you if that is a photostatic copy of a check drawn on the Treasury of the State of Maine?

A. Yes, sir.

Q. And was the original of that cashed by you?

A. It was.

Q. And the cash given to Mr. Runnells?

A. To Mr. Runnells.

Q. And the amount of that check is \$779.19?

A. Yes, sir.

(Proponents' Exhibit No. 14, being a photostatic copy of a State of Maine Treasury check for \$881.21, marked.)

Q. I show you Proponents' Exhibit No. 14 and ask you if that is a photostatic copy of a check drawn on the Treasury of the State of Maine?

A. Yes, sir.

Q. And you cashed the original of that check?

A. Same conditions exactly.

Q. And was the amount of that check \$881.21?

A. Yes, sir.

(Proponents' Exhibit No. 15, being a photostatic copy of a State of Maine Treasury check for \$630, marked.)

Q. I show you Proponents' Exhibit No. 15 and ask you if that is a photostatic copy of a check drawn on the State Treasury?

A. Same conditions, with my cash mark on there.

Q. You cashed that?

A. The same conditions exactly—to Mr. Runnells.

Q. And that check is for \$630, is it not?

A. Yes, sir.

(Proponents' Exhibit No. 16, being a photostatic copy of a State of Maine Treasury check for \$460, marked.)

Q. I show you Proponents' Exhibit No. 16 and ask you if that is a photostatic copy of a check on the State of Maine Treasury?

A. It is.

Q. And did you cash the original of that check?

A. I did, to Mr. Runnells; \$460.

Q. And is that check for \$460?

A. It is.

Mr. BROWN: I might state, Mr. Chairman, that I have been proceeding to prove the checks that have been alleged in Count (c) under the fourth count in which ten checks were alleged, and so of course I would not be entitled to put in as many exhibits as I have. I am offering Proponents' Exhibits from one to ten.

The CHAIRMAN: What are the numbers please?

Mr. BROWN: I will change that. Proponent's Exhibits numbers six to fifteen, inclusive.

The CHAIRMAN: Is there any objection, Mr. Gillin?

Mr. BROWN: Proponent's Exhibits six to fifteen are offered without objection.

The CHAIRMAN: Is there any objection, Mr. Gillin?

Mr. GILLIN: No, Mr. Chairman.

The CHAIRMAN: Admitted without objection.

Mr. BROWN: Mr. Winship, the exhibits of the proponent from six to fifteen were all presented to your office by Mr. Runnells and cashed by you personally, is that correct?

A. Yes, sir.

Q. Was any income sheet presented with them to you?

A. Not to have them cashed; there wouldn't be any income sheet.

Mr. BROWN: To save a little time, if Mr. Gillin is agreeable, instead of reading these checks, I will read one check.

"State of Maine, Treasury Department. Pay the sum of Five Hundred Eighty-six Dollars, no cents, to the order of the Treasurer of State, Care, Runnells. (signed) W. A. Runnells, Controller of State.

Belmont Smith, Treasurer of State." All of these exhibits, these ten exhibits, are similar except as to amounts. The dates are such that they all have occurred within the period that Mr. Smith held the office of State Treasurer.

It is stipulated and agreed, Mr. Chairman, that the total amount of Proponent's Exhibits six to fifteen, inclusive, is \$6,587.30.

Mr. CHAIRMAN: Is that agreed to, Mr. Gillin?

Mr. GILLIN: Yes, sir.

(Exhibit 17—Proponents—marked)

Mr. BROWN: Mr. Winship, I show you Proponent's Exhibit No. 17 and ask you if that is a photostatic copy of a check on the Treasury of the State of Maine which was cashed by you?

A. I don't doubt but it was cashed by me for the simple reason it went through our office to be re-deposited.

Q. It was cashed by you?

A. And the money given to Mr. Runnells.

Q. The amount of that check is \$3,742.21?

A. Yes, sir.

(Exhibit 18—Proponents—marked)

Q. I show you Proponent's Exhibit No. 18 and ask you if that is a photostatic copy of a check drawn on the Treasury of Maine which was cashed by you?

A. Yes, it came through. It is another check cashed for Mr. Runnells.

Q. Is the amount of that check \$3,750.50?

A. Yes, sir.

(Exhibit 19—Proponents—marked)

Q. I show you Proponent's Exhibit No. 19 and ask you if that is a photostatic reproduction of a check drawn on the Treasury of the State of Maine and cashed by you?

A. No question at all but what I did.

Q. And gave the cash to Mr. Runnells?

A. And gave the cash to Mr. Runnells.

Q. Is that amount \$2,461.40?

A. It is, yes, sir.

(Exhibit 20—Proponents—marked)

Q. I show you Proponent's Exhibit No. 20 and ask you if that is a photostatic reproduction of a check drawn on the State of Maine Treasury and cashed by you?

A. Yes, sir; it is stamped cash right there.

Q. You cashed that and gave the proceeds to Mr. Runnells?

A. Yes, sir.

Q. Is the amount of that check \$2,461.40?

A. It is.

(Exhibit 21—Proponents—marked)

Q. I show you Proponent's Exhibit No. 21 and ask you if that is the photostatic reproduction of a check drawn on the Treasury of Maine?

A. Yes, sir.

Q. Cashed by you?

A. Evidently, yes, sir.

Q. And the money given to Mr. Runnells?

A. Yes, sir.

Q. Is the amount of that check \$1,230.70?

A. It is.

(Proponents' Exhibit No. 22, being a photostatic copy of a State of Maine Treasury Check for \$3752.63 marked.)

Q. I show you Proponents' Exhibit No. 22 and ask you if it is a photostatic reproduction of a check drawn on the Treasury of the State of Maine?

A. It is.

Q. And was it cashed by you?

A. Yes, sir.

Q. And the money was delivered to Mr. Runnells?

A. It was.

Q. And is the amount \$3,752.68?

A. It is.

(Proponents' Exhibit No. 23, being a photostatic copy of a State of Maine Treasury Check for \$2502.83 marked.)

Q. I show you Proponent's Exhibit No. 23 and ask if it is a photostatic reproduction of a check drawn on the State of Maine Treasury?

A. Yes, sir.

Q. And was it cashed by you?

A. Yes, sir.

Q. And the money was delivered to Mr. Runnells?

A. It was.

Q. And the amount of the check is \$2502.83?

A. It is.

(Proponents' Exhibit No. 24, being a photostatic copy of a State of Maine Treasury Check for \$1279.37, marked.)

Q. I show you Proponents' Exhibit No. 24 and ask you if it is a photostatic reproduction of a check drawn on the State of Maine Treasury?

A. It is.

Q. And was it cashed by you?

A. It was.

Q. The proceeds given to Mr. Runnells?

A. Yes.

Q. The amount is \$1279.37?

A. It is.

(Proponents' Exhibit No. 25, being a photostatic copy of a State of Maine Treasury Check for \$1283.09, marked.)

Q. I show you Proponents' Exhibit No. 25 and ask if it is a photostatic reproduction of a check drawn on the State of Maine Treasury?

A. It is.

Q. And was it cashed by you?

A. It was.

Q. The amount is \$1283.09?

A. Yes, sir.

Q. Did Mr. Runnells get the cash?

A. Yes, sir.

(Proponents' Exhibit No. 26, being a photostatic copy of a State of Maine Treasury check for \$1159.48, marked.)

Q. I show you Proponents' Exhibit No. 26 and ask you if it is a photostatic reproduction of a check drawn on the Treasury of the State of Maine?

A. It is.

Q. Was it cashed by you?

A. It was.

Q. And was the cash delivered to Mr. Runnells?

A. It was.

Q. The amount is \$1159.48?

A. It is.

(Proponents' Exhibit No. 27, being a photostatic copy of a State of Maine Treasury check for \$1283.09, marked.)

Q. I show you Proponents' Exhibit No. 27 and ask if it is a photostatic reproduction of a check drawn on the Treasury of the State of Maine?

A. It is.

Q. And was it cashed by you?

A. It was.

Q. The money was delivered to Mr. Runnells?

A. It was.

Q. The amount is \$1283.09?

A. It is.

(Proponents' Exhibit No. 28, being a photostatic copy of a State of Maine Treasury check for \$3680, marked.)

Q. I show you Proponents' Exhibit No. 28 and ask if it is a photostatic reproduction of a check drawn on the Treasury of Maine?

A. It is.

Q. Was it cashed by you?

A. Yes, it was.

Q. The money was delivered to Mr. Runnells?

A. It was.

Q. And is the amount \$3680?

A. It is.

(Proponents' Exhibit No. 29, being a photostatic copy of a State of Maine Treasury check for \$1242, marked.)

Q. I show you Proponents' Exhibit No. 29 and ask if it is a photostatic reproduction of a check drawn on the Treasury of the State of Maine?

A. Yes.

Q. Was it cashed by you?

A. I should say, yes.

Q. Was the money delivered to Mr. Runnells?

A. It was.

Q. And is the amount \$1242?

A. Yes.

(Proponents' Exhibit No. 30, being a photostatic copy of a State of Maine Treasury check for \$3680, marked.)

Q. I show you Proponents' Exhibit No. 30 and ask if it is a photostatic reproduction of a check drawn on the Treasury of the State of Maine?

A. It is.

Q. Was it cashed by you?

A. Yes, sir.

Q. Did you deliver the money to Mr. Runnells?

A. I did.

Q. The amount of the check is \$3680?

A. It is.

(Proponents' Exhibit No. 31, being a photostatic copy of a State of Maine Treasury check for \$1283.09, marked.)

Q. I show you Proponents' Exhibit No. 31 and ask you if it is a photostatic reproduction of a check drawn on the State of Maine?

A. It is.

Q. Was it cashed by you?

A. Evidently.

Q. Was the money delivered to Mr. Runnells?

A. Yes.

Q. Is the amount \$1283.09?

A. It is.

(Proponents' Exhibit No. 32, being a photostatic copy of a State of Maine Treasury check for \$1242, marked.)

Q. I show you Proponents' Exhibit No. 32 and ask if it is a photostatic reproduction of a check drawn on the Maine Treasury?

A. It is.

Q. And was it cashed by you?

A. It was.

Q. The money was given to Mr. Runnells?

A. Yes, sir.

Q. Is the amount of the check \$1242?

A. Yes.

(Proponents' Exhibit No. 33, being a photostatic copy of a State of Maine Treasury check for \$829.60, marked.)

Q. I show you Proponents' Exhibit No. 33 and ask if it is a photostatic reproduction of a check drawn on the Treasury of the State of Maine?

A. It is and the cash was given to Mr. Runnells.

Q. By yourself?

A. Yes.

Q. Any of these checks cashed would be delivered by you personally to whoever cashed them?

A. Yes.

Q. And the only person you ever gave cash to for these checks was Mr. Runnells?

A. Yes.

Q. Is the amount \$829.60?

A. It is.

(Proponents' Exhibit No. 34, being a photostatic copy of a State of Maine Treasury check for \$2521.40, marked.)

Q. I show you Proponents' Exhibit No. 34 and ask if it is a photostatic reproduction of a check drawn on the Maine Treasury?

A. It is.

Q. Was the original cashed by you?

A. It was.

Q. Did you give the money to Mr. Runnells?

A. I did.

Q. Is the amount \$2521.40?

A. It is.

(Proponents' Exhibit No. 35, being a photostatic copy of a State of Maine Treasury check for \$1679.30, marked.)

Q. I show you Proponents' Exhibit No. 35, and ask if it is a photostatic reproduction of a check drawn on the State of Maine Treasury?

A. It is.

Q. You cashed it?

A. Yes.

Q. The proceeds were turned over to Mr. Runnells?

A. Yes, sir.

Q. Is the amount \$1679.30?

A. It is.

(Proponents' Exhibit No. 36, being a photostatic copy of a State of Maine Treasury check for \$1563.10, marked.)

Q. I show you Proponents' Exhibit No. 36 and ask if it is a photostatic reproduction of a check drawn on the State of Maine Treasury?

A. It is.

Q. Was it cashed by you?

A. It was.

Q. The proceeds were given to Mr. Runnells?

A. Yes, sir.

Q. Is the amount of the check \$1563.10?

A. Yes.

(Proponents' Exhibit No. 37, being a photostatic copy of a State of Maine Treasury check for \$1721.30, marked.)

Q. I show you Proponents' Exhibit No. 37 and ask you if it is a photostatic reproduction of a check drawn on the Treasury of the State of Maine?

A. It is.

Q. Was it cashed by you?

A. Yes, sir.

Q. And what did you do with the proceeds?

A. Gave to Mr. Runnells.

Q. Is the amount of the check \$1721.30?

A. It is.

(Proponents' Exhibit No. 38, being a photostatic copy of a State of Maine Treasury check for \$1502.30, marked.)

Q. I show you Proponents' Exhibit No. 38 and ask if it is a reproduction of a check drawn on the Treasury of the State of Maine?

A. It is.

Q. Was the check cashed by you?

A. It was—in cash.

Q. Did Mr. Runnells receive the money?

A. He did.

Q. Is the amount of the check \$1502.30?

A. It is.

(Proponents' Exhibit No. 39, being a photostatic copy of a State of Maine Treasury check for \$2000, marked.)

Q. I show you Proponents' Exhibit No. 39 and ask if it is a photostatic reproduction of a check drawn on the Treasury of the State of Maine?

A. It is.

Q. Was it cashed by you?

A. Yes.

Q. The proceeds delivered to Mr. Runnells?

A. Yes.

Q. The amount of the check is \$2000?

A. Yes.

Q. Mr. Winship, when you say,

as you have—this is for the sake of the record—that Proponents' Exhibits No. 17 to 39 inclusive were cashed by you, you mean in your capacity as Deputy Treasurer and in your office and from the cash in the Treasury of the State of Maine, do you?

A. Yes, sir.

Mr. BROWN: Mr. Speaker, I will not offer the exhibits that have just been qualified because Mr. Gillin would like an opportunity to inspect them before they are offered, so I will offer them later.

Q. (By Mr. Brown) Mr. Winship, do you keep the cash in the Treasurer's office in a vault or do you carry it all at the window in a drawer?

A. Oh no, we have a reserve in the vault inside.

Q. Small amounts of cash are carried in the drawer at the window?

A. Yes.

Q. Now when you cashed these checks for Mr. Runnells would it be necessary for you to go into the vault to get the money?

A. Very frequently.

Q. And did you keep in your office an account of the amount of cash in the vault?

A. Yes, sir.

Q. And when you took from the vault large sums of money to cash these checks which Runnells presented, did you make an entry on your records?

A. Yes, sir.

Q. As to how much cash had been withdrawn from the vault?

A. Yes, sir.

Q. Now I do not know whether Mr. Gillin will object to this or not. Don't answer this question until there is an opportunity to object.

If Mr. Smith had examined the record of the amount of cash in the vault, it would have been apparent, would it not, that there had been withdrawn therefrom large sums of money?

Mr. GILLIN: I object to that. That involves an opinion.

The CHAIRMAN: On the ground that it is an opinion?

Mr. GILLIN: Yes.

Mr. BROWN: I will withdraw it and frame it this way:

The amount of the withdrawals which were taken to cash these checks that have just been exhibited would appear on your records? Is that correct?

A. What we call the blotter, yes, sir.

Q. And if Mr. Smith had examined that record he would have seen these entries?

Mr. GILLIN: I object.

Mr. BROWN: I will withdraw it.

Q. (By Mr. Brown) Did Mr. Smith ever examine that record?

A. I haven't the slightest idea.

Q. Did you ever see him examine it?

A. No, I never saw him.

Q. Now don't answer this question until Mr. Gillin has an opportunity to object.

How large amounts of cash would you carry in your vault?

A. It varied.

Q. Well, what are the limits?

A. Why, it might be anywhere from \$10,000 to \$20,000.

Q. You never would have over \$20,000 cash in the vault?

A. I wouldn't say I never would have over that, but it would run along there. I generally tried to keep it cleared out and when there was any overage I would take it down to the bank.

Q. You never would have \$50,000?

A. Oh, no.

Q. Just one question, Mr. Winship.

In the checks which are Proponents' Exhibits No. 17 to 39 inclusive, which you have just examined, all of those checks were, were they not, payable to the Treasurer of the State of Maine with the Bureau of Accounts and Control designated as secondary payee?

Mr. GILLIN: I would object to that in its present form. The checks are in and they speak for themselves. I would prefer to have the checks themselves.

Mr. BROWN: I was just trying to avoid going over every one of these checks. I will withdraw the question.

Cross Examination

(By Mr. Gillin)

Q. I should like to ask you Mr. Winship, if Mr. Smith had any knowledge of the cashing of any of these checks by you for Mr. Runnells?

A. No, sir.

Q. There is no question about that?

A. No, sir.

Q. And that has to do with all

of the checks that have been marked and introduced here?

A. As far as I know.

Q. Well, that is the fact?

A. Yes.

Q. And whether or not you had cashed departmental checks of the same kind and nature as the last group of checks which have been used here as exhibits for Mr. Runnells prior to Mr. Smith becoming Treasurer?

A. Well, that is a pretty hard question. If there had been any to be cashed, probably I cashed them. That is the best answer I can give.

Q. Don't you recall each year for several years you had cashed checks for Mr. Runnells?

A. He got those cashed. If you could say what he wanted them cashed for it might help, but just the fact of cashing them looks pretty bad at present. What Mr. Runnells wanted the money for would help out considerably and possibly I could check back from that.

Q. I possibly have not made myself clear.

A. It would be pretty hard for me to remember, where I have handled thousands and thousands of checks, it would be hard for me to work back three or four years and see if I could remember what I have done in that time.

Q. Do you recall whether or not before Mr. Smith became Treasurer that you had occasion to cash checks for Mr. Runnells?

Mr. BROWN: I object.

I do not see how it is material, Mr. Speaker, as to the practice that occurred before Mr. Smith's incumbency. We are reviewing here what occurred during his period of office. Of course if we are going way back into ancient history that is another thing, but I do not see that it is material.

Mr. GILLIN: The purpose of that interrogation, Mr. Speaker, was simply this: That the inference of irregularity with respect to the action of Mr. Winship in cashing these checks, which, as I understand the theory of the proponents, reflects on Mr. Smith, it is to some extent mitigated if it can be shown that was the custom and if it was based on what I expected would be the answer to my next question and what has already been testified about—Mr. Winship's complete respect both for the integrity of Mr. Runnells and his authority to do what—

ever he was fit to do. I think it is only fair that I be permitted to produce that inference. If my Brother objects to it, I will withdraw the question.

Mr. BROWN: I would not object to you inquiring of this witness whether or not he had implicit confidence in Mr. Runnells.

Mr. GILLIN: He has testified he did have.

Mr. BROWN: But I object to going into how he happened to have that implicit confidence which apparently was acquired before Mr. Smith came in. I am willing to have him state, and I do not question but what he did have implicit confidence. What do you require for the purpose of this examination other than that?

Mr. GILLIN: Do you wish me to restate it?

Mr. BROWN: Yes.

Mr. GILLIN: I wish to prove that prior to Mr. Smith coming into office for some period of time it was to some extent the custom of Mr. Runnells to come in and cash checks with Mr. Winship, and that Mr. Winship, out of respect for Mr. Runnells' integrity and the legality of what he was doing, and his authority, cashed such checks for him, which to some extent mitigates against the inference which you would seek to draw by the introduction of these checks that they reflect on Mr. Smith.

Mr. BROWN: What possible materiality can that have, in view of the statement by Mr. Winship already that Mr. Smith knew nothing about the transaction? Now if Mr. Smith knew nothing about the transaction, how can it be material as to why Mr. Winship did cash those checks?

Mr. GILLIN: Well, I have some question as to the materiality of the evidence, but I haven't objected to any of it.

Mr. BROWN: Very well.

The CHAIRMAN: The Chair understands that the objection is withdrawn.

Q. Now, let me ask you again and see if you can recall. Wasn't it a fact that for several years prior to Mr. Smith's becoming Treasurer, Mr. Runnells from time to time would come to you with these same types of checks for which you would give him cash, and didn't you report that to Ernst & Ernst, auditors?

A. Ernst & Ernst had a list of

checks back for some time and I kind of tried to make them agree with the sum of money that had been drawn from the bank to see if there were any that might have had to do with the cash. Now, it may be possible they may have been for other purposes and possibly I did it.

Q. And you don't have any recollection?

A. I don't have what you might call a real definite recollection of doing anything of the kind but I feel that there were some of those checks cashed.

Q. By you?

A. Well they were cashed and probably by me but I can't swear to it.

Q. Have you any recollection of anybody else cashing such checks?

A. No.

Q. So that such recollection as you have is connected up with checks that you think were probably cashed?

A. I think undoubtedly they were and that I cashed them.

Q. I hand you these exhibits which are numbered Proponents' Exhibits No. 6 to Proponents' Exhibits No. 15. Those were checks which were made payable to the Treasurer of State, care of Controller?

A. Yes, sir.

Q. And which are unaccompanied in their present form by any other voucher. Now I would ask you what, if any, explanation Mr. Runnells gave to you at the time he asked you to cash those checks?

A. Well, I can't just exactly say that is all but there were three different explanations for the series of checks.

Q. You are now speaking about the checks that have been put in evidence today?

A. I can't tell. They were put in on the various requests that he had.

Q. Will you tell the three different stories or explanations that Mr. Runnells gave you—

A. That is what I would like to do.

Q.—when you cashed those checks for him?

A. Well, in the first place—

Q. Well, I will withdraw that question for the moment. This last group of checks which you have testified you cashed for Mr. Runnells, all of which are made out

to the Treasurer of the State, Bureau of Accounts and Control, have attached to them, each one, two photostatic supporting documents and the first one is a serial number and reads, "Augusta, Maine, September, 1938, State Highway Commission, Bureau of Accounts and Control, Dr., Excise Tax Division, July 1, Sept. 30, 1938 \$3,752.68." Under that there follows the word "charge" and "91W-901-1000-1260" and then there appears a small rubber stamp "Bureau of Accounts and Control, paid, warrant 781, check number 112964" which is the serial number on the check here, dated October 1, 1938, which is the date of the check. Now what is that document?

A. I haven't the slightest idea.

Q. Is that something that came with the check?

A. No, sir, it wasn't on the check. It is on the paper taken out of the files by the auditors.

Q. Was that with it when the check was presented to you?

A. Nothing but the bare check.

Q. Now let's see what the second document says. The second document attached to this check which is marked Exhibit 22. Proponents, has these notations on it, in part: "Excise Tax Division, July 1, Sept. 30, 1938, thirteen and one-sixth weeks, appropriation for the year sixteen thousand, five per cent saving, eight hundred dollars," and a line is drawn under it and a balance struck, "\$15,200." Then a similar notation and a balance struck of \$322.58. And then, "increase payroll, Mary Murphy, thirteen and one-sixth weeks, 350, then \$31.33," and it is all totalled to \$14,928.75 and then there follows some division and then there is an inscription, "\$40.79 multiplied by ninety-two days" and bringing out a total of \$3,752.68 which is the amount of the check. Under that appears the legend "July 1, Sept. 30, 1938, inclusive." Now did you ever see a document like that before?

A. No, sir. Well, of course I saw it when Mr. Wilkinson had it.

Q. Do you know who made that document up?

A. It looks like Mr. Runnells' figures. But none of these checks had anything attached to them.

Q. Now, handing you that group of checks which was the large second group that Mr. Brown asked you questions about and all of

which are checks drawn to the Treasurer of State, Bureau of Accounts and Control, and handing you this first group of checks which he used which are made payable to the Treasurer of State, care of Controller, will you give any and all explanations that Mr. Runnells gave you at the time he requested you to cash these checks or any of them?

A. I can give you three explanations.

Q. For cashing these checks?

A. Yes. In the first place he gave me three or four units of denominations of currency and coins down to the one cents and asked me if I would put them in that form and that he wanted to go and pay off some of the Highway payrolls or WPA payrolls, I don't recall which, but it was payrolls so that he could see if something improper was going on, and I would get the money and take it in to him. I took the money out of the drawer and counted it and had it recounted by a clerk in the office and took it in to him and he would thank me. Afterwards, after he had gotten through with those, he had some special operators on the Auburn case and he didn't want the clerks and stenographers to know the names of the operators so he preferred to pay them in cash and he got the cash from these checks. Later it was that there was being other beer run through without the State tax on it and he was having some special investigators on that and he wanted to pay them in the same way that he did the others. Those were his stories to me and I had faith in his honesty, of course.

Q. And you cooperated?

A. I did.

Q. And did one of those explanations apply to all of the checks in these two bundles?

A. Yes, I should say right straight through.

Q. And whether or not the photostat memo attached to Proponents' Exhibit No. 11, which is a list, apparently, of the denominations of bills and the totals, is the memo that Runnells gave you with respect to that particular check for \$791.43 as the manner in which he wished the cash delivered?

A. Yes, sir. My own figures.

Q. That is the way he wanted them?

A. He asked me to get them in that way; yes, sir.

Q. Now, who kept this cash blotter that you have spoken of?

A. Oh, we all did. It was right there lying on the desk all the time.

Q. That is, you and the girls in the office kept it?

A. Yes, and there was money either being taken out or put in practically every day.

Q. That was handled by you and the girls under you? A. Yes.

Q. And that amount of cash on that blotter was highly variable, up and down?

A. Oh yes, indeed. That is what we added or deducted if there was money put in or taken out of the safes.

Q. And whether or not on that blotter it was just simply entered as cash amounts without any distribution to departments?

A. No distribution to any departments at all.

Q. So that anybody looking at the figures on that blotter would not have any knowledge with respect to what had happened to that cash with respect to whether it had been given to departments or cashed for checks or anything?

A. Not the slightest.

The CHAIRMAN: The Convention may be at ease for ten minutes.

After Recess

The Convention was called to order by the Chairman.

Mr. GILLIN: As a preface to my question, Mr. Winship, I wish to call your attention to this statute, "The department of audit shall have authority to perform a post-audit of all accounts and other financial records of the state government, or any department, or agency thereof, and to report annually on this audit, and at such other times as the legislature may require. The state auditor shall keep no accounts in the department of audit, but he shall conduct a continuous post-audit of the accounts, books, records, and other evidences of financial transactions kept in the department of finance, or in the other departments and agencies of the state government. He shall prepare and publish a report, setting forth the essential facts of such audit in summary form, within two months after the close of each fiscal year. If he shall find in the course of his audit evidences of improper transactions, or of incompetence in keeping accounts or handling funds, or of any other improper practice

of financial administration, he shall report the same to the governor immediately; if he shall find evidences of illegal transactions, he shall forthwith report such transactions both to the governor and to the attorney general." Now, on any occasion when the auditor, in the pursuance of the duties under that statute, was going over the books and records of your department did he ever call your attention to, or raise any question as to the impropriety, incorrectness or illegality of any transaction in your department?

A. No, sir.

Q. And so far as you know, from any reports he ever submitted, he never reported any?

A. No, sir.

Q. One other question: Did your department, to your knowledge, receive any direct attention from the Governor and Council with respect to how its affairs were being conducted?

A. No, sir.

Mr. BROWN: That is all, Mr. Winship, at the present time.

FRANZ U. BURKETT, Sworn

Direct Examination

(By Mr. Brown)

Q. Will you state your name, please?

A. My name is Franz U. Burkett.

Q. And are you the Attorney-General for the State of Maine?

A. Yes.

Q. Mr. Burkett, did the Treasurer of the State, Mr. Belmont Smith, or anyone connected with his office, ever report to you the amount of uncollected 1933 bank taxes?

A. No, they didn't.

Q. When were you first aware of the fact that there were uncollected 1933 bank taxes?

A. Well, I was informed of it by Mr. Wilkinson, of the auditing firm, some time in April.

Q. Last April?

A. Yes.

Q. Were you ever informed by the State Treasurer or anyone connected with his office that there were uncollected back taxes against the Lime Rock Railroad?

A. No.

Q. Never heard of it?

A. Not until the auditors' report.

Q. And your first knowledge on that point was last April?

A. I do not think I knew about that until the report was made by the auditors.

Q. Was it ever reported to you by the State Treasurer or anyone connected with his office that there were uncollected taxes assessed against the Bangor Savings Bank and Houlton Savings Bank for the years 1935, 1934, 1933 and 1932?

A. I learned about that sometime in March.

Q. Last March?

A. Yes.

Q. And that was the first knowledge you ever had in regard to the uncollected savings bank tax?

A. Right.

Cross-Examination

(By Mr. Gillin)

Q. Mr. Burkett, you know of no statutory provision which requires the Treasurer to report delinquent taxes to you?

A. Not in so many words. The statute requires me to collect them.

Q. But there is no statute requiring a report to you of uncollected taxes?

A. Not that I know of.

Q. You are familiar, as Attorney General, with the fact that these banks on which the 1933 taxes are here in question were in receivership back in 1933 and many of them are still in the process of liquidation?

A. They all are.

Q. And it is a fact, is it not, that during the intervening years from 1933 to date that the State has been receiving from those banks both cash dividends and in some cases the organization stock?

A. I don't know that of my own knowledge but I assume it.

Q. Now, are you correctly quoted in the report of Ernst and Ernst with respect to the taxes on these banks which were closed in 1932 and 1933, "We found upon inquiry that the Attorney General had never been notified by the State Treasurer as required by Section 75 of Chapter 12 of the Revised Statutes of 1930 of these unpaid taxes. Upon the matter being called to his attention he expressed the opinion that these taxes can be enforced and he is now taking appropriate action for their collection." Is that a correct quotation?

A. Yes, I think they are as much collectible now as they ever were except in the case of one bank which may have liquidated itself

down to the point where it has no money with which to pay them.

Q. So except for that point it is your opinion that "the collection of these taxes can be enforced"?

A. That is my opinion. There are other lawyers who think they can't be and I am discussing it with them.

Q. And did you in furtherance of that opinion have a discussion some time ago with Justice Hudson of the Supreme Court?

A. Yes and a continuation of the matter is now waiting for the return of Justice Thaxter from a vacation to have a further conference with him.

Redirect Examination

(By Mr. Brown)

Q. Any conferences that you had, Mr. Attorney General, with Judge Hudson or any other parties with regard to these taxes has been since March or April? Is that correct?

A. Yes, since the auditors reported the matter to me.

Q. Do I understand you to say that it is your opinion that these taxes which we are now discussing can be collected as readily now as they could have been in 1933 or 1934 or 1935?

A. Yes, I think so, except in the case of the one bank which may not have the money with which to pay them.

Q. These banks which we are discussing have paid dividends, as I understand it, over a period of years since 1933?

A. Oh yes.

Q. Well, bearing in mind the fact that they have paid dividends it is still your opinion that these taxes are as readily collectible today as they were in the past?

A. No, I don't think it is going to be as easy to collect them now as it would have been if we had had the matter at the time. Of course the taxes accrued before I became Attorney General.

Q. In other words, these banks haven't the assets today that they had two or three years ago, have they?

A. Oh, no.

Recross Examination

(By Mr. Gillin)

Q. Isn't it a fact, Mr. Burkett, that there was injunctive restraint in connection with these receiverships which occurred in 1933, which still exist and which do now prevent the Treasurer, and which pre-

vented his predecessor, from bringing an action of debt against the banks to collect the taxes?

A. Yes, I think that is true.

Q. So that even if Mr. Smith had been so minded and if it was his duty he could not have complied with this Section 75 of Chapter 12 of the Revised Statutes of 1930?

A. No. He would have had to take the matter up by filing a claim, of course.

Q. What bank did you have reference to in which your view was that there wouldn't be enough assets on liquidation to take care of the State taxes?

A. The Security Trust Company.

Mr. GILLIN: Thank you.

Redirect Examination

(By Mr. Brown)

Q. No claims were filed by the Treasurer against any of these banks in receiverships, were there?

A. Not to my knowledge.

Q. And it is true, is it not, as a matter of law, that the Treasurer could have filed a petition with the Court requesting permission to sue these banks which were in receivership?

A. I don't think there would have been any necessity of bringing suit. He could have filed a claim.

Q. But just bearing on the point which I think Mr. Gillin attempted to make that where the bank had gone into receivership it was impossible a suit could have been brought if a petition had been filed in the Court that had jurisdiction and if the Court had permitted it?

Mr. GILLIN: I object to the question on the ground that there is no mandate in the statute requiring that of the Treasurer. Whatever remedy he might have seen fit to pursue on that, it is not mandatory. The duty might devolve on the Attorney General or some other officer. I don't think the question is fair.

Mr. BROWN: He is required to collect taxes. The point has been made that an action of debt is the proper remedy and the one prescribed. I don't think that relieves the Treasurer from taking a preliminary step which may be necessary to found that action on.

The CHAIRMAN: The Presiding officers feel that we have been very

liberal in the admission of testimony and that it is not going very far afield to allow an answer to the question.

(Question read)

A. Yes, but I think the way the case would have been handled would have been to have filed the claim, had it set down for hearing and if the Judge disallowed it you could have taken the matter up to the law court rather than bring a suit in these particular cases.

Q. But no claims were filed?

A. Not as far as I know. I don't think they were. The receivers say they were not filed.

Recross Examination

(By Mr. Gillin)

Q. Do you grant that the obligation of the Treasurer with respect to these back taxes was in the first instance to send out a billing and that—I am speaking of the present Treasurer—and that upon finding that these banks were in receivership protected by court injunction which precluded him from bringing an action of debt and even assuming that he wasn't entitled to assume that his predecessor had complied with the law, do you think that it was his duty as distinguished from the office of Attorney General to file a claim since 1937, or the Attorney General's department?

A. Well, the Attorney General's department didn't know anything about the matter. I never heard of the fact that the taxes weren't paid until Mr. Wilkinson reported it to me some time in April.

Q. Well, have you ever heard of a Treasurer of State filing a claim without the Attorney of the State?

A. No.

Q. And do you know of any mandate of the law requiring the Treasurer of State to file a claim with a receiver of a bank in receivership?

A. Not in so many words; no.

Mr. GILLIN: Thank you.

Mr. BROWN: I will now state, Mr. Speaker that now I propose to go into the third count or at least to attempt to.

The CHAIRMAN: You may proceed.

Mr. BROWN: Which provides that the Treasurer has neglected his statutory duties in the investment of trust funds, and I now call Mr. Winship.

LOUIS H. WINSHIP, Recalled

Redirect Examination

(By Mr. Brown)

Q. Mr. Winship, do you have custody of the securities in the trust funds of the State of Maine?

A. Yes, sir.

Mr. GILLIN: May I inquire if that is addressed to him personally, that he has personal custody?

Mr. BROWN: I am inquiring if he has personal custody of the securities in the trust funds of the State of Maine.

Q. Have you custody of them?

A. Well, I take care of them. Of course they are in the custody of the Treasurer of State.

Q. Who is it that makes the actual investments where trust funds are involved?

A. The State Treasurer.

Q. Is that a matter which Mr. Smith devoted his whole personal attention to?

A. Not his whole personal attention.

Q. What I mean is this, Mr. Winship: If any securities were purchased for a portfolio, would they be purchased by Mr. Smith himself?

A. Yes, sir.

Q. His own judgment was exercised as to what securities would be purchased?

A. I should say that he consults with the Bank Commissioner in regard to the legality.

Q. Did you have anything to do with their purchase?

A. No, sir.

Q. Did anyone in your office have anything to do with their purchase?

A. No, sir.

Q. Are you familiar with the different trust funds of the State of Maine?

A. Yes, sir.

Q. Are you aware of the permanent trust funds of the State?

Mr. GILLIN: I object to that.

Mr. BROWN: I am asking if he knows what funds are permanent trust funds.

Mr. GILLIN: Well, I would object to that and I make this suggestion, that you ask him if he is competent to give that legal opinion.

Q. How long have you had the custody of these trust funds?

A. Since 1917.

Q. Have you been aware of the different securities contained in each fund?

A. Yes, sir.

Q. Do you feel that you are com-

petent to testify as to what funds are permanent trust funds?

A. Why, I assume that they are all permanent.

Q. Well, by permanent do you mean unrestricted?

A. Well, some of them are restricted and some are unrestricted.

Q. Do you know those trust funds which are restricted and those which are unrestricted?

A. I should say the unrestricted ones would be the reserve to retire the Kennebec Bridge loan bonds.

Q. And the rest of the trust funds are unrestricted?

A. Well, there is the fund for the Passamaquoddy Indians and the Penobscot Indians for additions to that fund occasionally.

Q. Are you familiar with all the names of these different trust funds?

A. Fairly so; yes, sir.

Q. And are you familiar with the different securities contained in each one?

A. I think so.

Mr. BROWN: Mr. Chairman, I am going to take the position that this man is qualified to testify as to the securities contained in these different funds and I propose to inquire of him in regard to them.

Mr. GILLIN: I have no objection to going into this security question. However, I do believe, and I think it is a fact, that there are certain trust funds here which might not come under the statutory definition of permanent trust funds. I am frank to confess that I am at a loss myself to know just which are intended to be covered by that statute. If it could be determined legally which were permanent trust funds I would have no objection to having a complete discussion of their portfolio. Mr. Winship has stated, in reply to a question as to whether or not he was competent to tell the list of permanent trust funds, if I am correct, "I assume that they all are." In other words his reply to a question which sought to qualify him brought forth the answer that he assumed things to be true, and until it is demonstrated that the trust fund about which evidence is going to be introduced is a permanent trust fund I believe that I shall object to such evidence, and I don't think that Mr. Winship has qualified himself to give that legal opinion.

Mr. BROWN: It is apparent, Mr. Chairman, that this witness has an

intimate knowledge of every one of these trust funds. He has acted as custodian of them for years and is familiar with all securities in each type of trust fund. Now if I do get into this matter I propose to inquire only about the funds on Pages 61, 62, 63, 64 and 65 but not all of those because some of them are legal. There are a great many of them which I have satisfied myself are all right. In view of the fact that this witness is apparently the only conceivable man, at least the only one I could conceive of that does know anything about it, and in view of his intimate knowledge, I think I should be permitted to ask the question of him,—in his opinion are they permanent trust funds? I will ask you this question, Mr. Winship, and do not answer until you see whether or not it is objected to.

Q. Mr. Winship, I will ask you to take the auditors' report and examine the list of funds on Pages 61, 62, 63, 64 and 65, and I ask you if, in your opinion, those funds are permanent trust funds.

Mr. GILLIN: I object to that, if the Court please. My brother states that because of the intimate knowledge this man had of those funds, and I think because they had been in his possession. He testified he took care of the securities. There isn't any evidence from him that he has any intimate knowledge of the securities other than to take care of the securities. Apparently he does not partake in the investing or reinvesting of them; he does not have contact with that phase of it. My brother says he had intimate knowledge, but he has been only a temporary caretaker for them, really a custodian. I am frank to say I have not had the opportunity to investigate. I could not say which of these are or whether they all may be permanent trust funds. That reason is based on some of the discussion for some of the trust funds in the Treasurer's report of 1911 and 1912. It would take a study of the inception of the trust funds to establish the fact whether they are within the statutory intent of the meaning of permanent trust funds. My objection is that this witness is not qualified either by a study of the inception of those funds or by any legal qualifications or by any definite knowledge of the nature of the funds. It must include a historical review to qualify him to give

an opinion which would be worth anything as to which are permanent funds. I am perfectly willing, if the hearing lasts long enough, that my brother be given an opportunity to consult experts and make a study of it, but the matter should be deferred until such has been done. I don't want to quibble about it but I think it is the position which I, for the defense, should take.

The CHAIRMAN: The stenographer will read the question.

(Question read)

The CHAIRMAN: The witness may answer yes or no.

Mr. BROWN: In your opinion are those permanent trust funds?

A. I shouldn't say that all of them were.

Q. Are some of them?

A. It is a trust fund in the sense of the word that I am thinking of, a permanent fund, such as the one at the top of the page, the Helen A. Gilman Legacy. That has remained one thousand dollars for a long time.

Q. Will you exchange books with me, Mr. Winship? I have some of these checked.

I will ask you this: Is the Coburn Fund a permanent fund?

The CHAIRMAN: What page is that on, please.

Mr. BROWN: Page 61.

A. Under the Augusta State Hospital, the Coburn Fund is supposed to be \$50,000.

Q. You misunderstood me, Mr. Winship. The Coburn Fund, which is the sixth fund, from the top of the page, is that a permanent trust fund?

A. It has been \$50,000 for a long, long time.

Q. It is a permanent trust fund?

A. That is what I call permanent. It has been \$50,000 and will remain \$50,000, if I am construing the word permanent correctly.

Q. Is your conception of permanent, a trust fund the principal of which does not change?

A. That is the way I understand it. Whether I am right or not is another thing.

Mr. GILLIN: I will object.

The CHAIRMAN: Objection sustained.

Mr. BROWN: Mr. Chairman, I have reason to believe that Mr. Hayford may be able to establish this point. I understand he is downstairs

and I have sent for him. I would like to have a few minutes.

The CHAIRMAN: The Convention may be at ease.

Convention at Ease

The CHAIRMAN: The Convention will be in order.

The Chair recognizes the Senator from Cumberland, Senator Spear.

SENATOR SPEAR: If there is no more business to come before the Convention, I move that we recess until tomorrow morning at 9.30 o'clock fast time.

In explanation, may I say that the Legislature will not be delayed any because counsel will confer and work on the case this evening and if there are committees that have any work they can do, there will be an opportunity for them to work also.

The CHAIRMAN: The Senator from Cumberland, Senator Spear, moves that the Convention recess until 9.30 tomorrow, fast time. Is this the pleasure of the Convention?

The motion prevailed and the Convention so adjourned.

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

In the House

The Speaker in the Chair.

The SPEAKER: Is it the pleasure of the House to take up an order out of order?

Order Out of Order

On motion by Mr. McGlaufflin of Portland, it was

ORDERED, that Mr. Ramsdell of Dayton be excused from attendance for the remainder of the present week.

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

Mr. VARNEY of Berwick: Mr. Speaker, I move to take from the table the matter tabled by me this morning relative to repeal of the title law.

The SPEAKER: The gentleman from Berwick Mr. Varney, moves that the House now take from the table bill "An Act Repealing the Law Requiring Guaranty of Title of Motor Vehicles, H. P. 2257, L. D.

1219, tabled by that gentleman earlier in today's session, pending its passage to be enacted. Is this the pleasure of the House,

The motion prevailed.

The SPEAKER: The question before the House is on the passage to be enacted of Bill "An Act Repealing the Law Requiring Guaranty of Title of Motor Vehicles." The roll call has been ordered. The Clerk will call the roll. All those in favor of the passage of the Bill to be enacted will answer yes; those opposed will answer no. The Clerk will call the roll:

YEA—Arzonico, Ayotte, Bacon, Batchelder, Bates, Belanger, Bird, Boileau, Bragdon, Brown, Caribou, Brown, Corinna, Brown, Eagle Lake, Bubar, Burbank, Burgess, Limestone, Butler, Buzzell, Chandler, Churchill, Clough, Cook, Cowan, Crockett, Cushing, Davis, Dean, DeBeck, Dennison, Donahue, Dorsey, Douglass, Dow, Elliot, Dow, Norway, Downs, Dwinall, Eddy, Ellis, Emery, Erswell, Farwell, Fernald, Ford, Fowles, Good, Goss, Grua, Hall, Hanold, Haskell, Hawes, Hildreth, Hinckley, Hinman, Hodgkins, Holden, Holman, Howes, Hussey, Jewett, Jordan, Keene, Labbee, LaFleur, Lambert, Larrabee, Latno, Leveque, MacNichol, Mahon, Marshall, Maxim, McGillicuddy, McGlaufflin, McNamara, Melanson, Mercier, Merrifield, Merserve, Mills, Murchie, Noyes, Otto, Palmetter, Paul, Payson, Peakes, Pelletier, Porell, Poulin, Rumford, Poulin, Waterville, Pratt, Preble, Race, Richardson, Robbins, Robie, Robinson, Bingham, Robinson, Peru, Robinson, S. Portland, Shesong, Sleeper, Slosberg, Smith, Thomaston, Smith, Westbrook, Snow, Dover-Foxcroft, Snow, Hermon, Stacy, Starrett, Stilphen, Sylvia, Thompson, Townsend, Varney, Viollette, Walker, Wallace, Weed, Weatherbee, Whitney, Williams, Winslow, Winter, Worth, Young, Acton.

NAY—None.

ABSENT—Babin, Barter, Cleaves, Dorrance, Dow, Kennebunkport, Everett, Fogg, Lord, Luro, Miller, Norwood, Pike, Lubec, Plummer, Ramsdell, Stevens, Tardif, Welch.

Yes—124.

No—0.

Absent—17.

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

On motion by Mr. Varney of Berwick,

Adjourned until tomorrow morning at 8:29 Eastern Standard Time.