

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-ninth Legislature

OF THE

State of Maine

SPECIAL SESSION

1940

**KENNEBEC JOURNAL PRINT SHOP
AUGUSTA, MAINE**

HOUSE

Wednesday, June 5, 1940.

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

Prayer by the Rev. Mr. Dunn, of Gardiner.

Journal of the previous session read and approved.

Report of a Committee

(Out of order)

Mr. Whitney from the Committee on Military Affairs on Resolve Creating the Committee for the Organization of Maine Defense (H. P. 2266) reported legislation inexpedient as the subject matter has been covered by executive action.

Report was read and accepted and sent up for concurrence.

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

ORDERED, that Mr. Marshall of Auburn, be excused from attendance for June 5th and 6th on account of urgent business.

The **SPEAKER**: Unless there is some business to come before the House under suspension of the rules at this time, the House may be at ease pending the arrival of the Senate.

House at Ease

The **SPEAKER**: Is it the pleasure of the House to suspend the rules and take up out of order an additional report of a committee and an additional Order?

Report of a Committee

Ought to Pass

(Out of order)

Mr. Dow from the Committee on Legal Affairs reported "Ought to pass" on Bill "An Act to Incorporate the Town of Bridgewater School District" (H. P. 2267)

Report was read and accepted and the Bill was tabled pending printing.

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

ORDERED, that Mr. Ford of Saco, be excused from attendance because of illness.

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, Hill, Kennedy, Laughlin, Lewis, Littlefield, Marden, Morse, Owen, Sanborn, Sewall, Spear, Thatcher, Tompkins, Wentworth, Worthen.

Representatives: Arzonico, Ayotte, Bacon, Batchelder, Bates, Belanger, Bird, Bolduc, 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, Crockett, Cushing, Davis, Dean, DeBeck, Dennison, Donahue, Douglass, Dow of Eliot, Dow of Kennebunkport, Dow of Norway, Downs, Dwinall, Eddy, Ellis, Emery, Erswell, Farwell, Fernald, 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, Maxim, McGillicuddy, McGlauffin, McNamara, Melanson, Mercier, Merrifield, Meserve, Miller, Mills, Murchie, Norwood, Noyes, Palmetter, 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, Thompson, Townsend, Varney, Viollette, Walker, Wallace, Weatherbee, Welch, Whitney, Williams, Winslow, Winter, Worth, Young of Acton.

Absent: Senators: Harkins.

Representatives: Babin, Barter, Dorrance, Dorsey, Everett, Fogg, Ford, Marshall, Otto, Pike of Lubec, Ramsdell, Stevens, Tardif, Weed.

The **CHAIRMAN**: The Convention may be at ease.

Convention at Ease

Called to order by the Chairman. (At this point, at the request of the President of the Senate, the Speaker of the House assumed the Chair as Chairman of the Convention.)

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

Mr. **BROWN**: Yes, Mr. Chairman. I propose at this time to offer Proponents' Exhibits No. 17 to 39 inclusive, which are the checks offered in evidence yesterday showing the amount of cash disbursed by the Deputy Treasurer. These go in with the stipulation that the sheets attached to them are not to be considered and they are not part of the case, because they are memos which were never made in the Treasurer's office and have no connection as far as this matter is concerned. I am offering simply the checks to show the amounts that were paid out.

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

Mr. **GILLIN**: No objection.

The **CHAIRMAN**: Proponents' Exhibits 17 to 39 admitted without objection, with the stipulation as stated by counsel.

ADELBERT D. HAYFORD, Sworn

Direct Examination

(By Mr. Brown)

Q. What is your name?

A. Adelbert D. Hayford.

Q. And were you formerly State Auditor?

A. Yes, sir.

Q. What period of time did you work for the State?

A. Well, I have worked for the State since 1905, all except two years.

Q. And when did your duties cease?

A. April 11, 1940, just recently.

Q. Did you in the year 1925 make an investigation of the trust funds of the State?

A. Yes. At least at that time I had on file considerable data that I had accumulated over a period of years and had made an investigation previous to that time.

Q. Was that an investigation as to the nature of the trust funds?

A. Yes.

Q. Now in 1931 or 1932 was Frank Cowan engaged by the Attorney General to make an exhaustive research of the trust funds of the State?

A. I do not recall the exact date, but I remember it was several years ago and it was probably about that time.

Q. He was requested, was he not, by the Attorney General, to make such an investigation?

A. I understand that the Attorney General and the Governor both asked for such an investigation.

Q. Did he make such an investigation?

A. He did.

Q. Did he consult with you during the process of his investigation in regard to the investigation you had formerly made in the year 1925?

A. Yes, on several occasions.

Q. And did you collaborate with him in making his investigation?

A. Yes, sir.

Q. Do you know that he filed a report with the Attorney General showing the result of his investigation?

A. Yes, I know of that report.

Q. A detailed report?

A. Yes.

Q. Are you familiar with this report?

A. I was familiar at that time. I don't recall much about it now, that is, the details of it, but I was familiar with it at the time, in fact I had one copy in my office.

Q. If you had occasion to refer to this report, you feel that it would refresh your recollection in regard to the nature of the different trust funds?

A. I think so.

Mr. **BROWN**: I am going to request that the witness be permitted to refresh his recollection from the report of Mr. Cowan if it is necessary.

The **CHAIRMAN**: Purely for the purpose of refreshing his own memory.

Mr. **BROWN**: I will take that position at this time, Mr. Speaker.

Mr. **GILLIN**: I object. That document is not qualified for that use.

The **CHAIRMAN**: Maybe an additional question will lay a little bit of basis for that.

Mr. **BROWN**: It already appears he did collaborate, if I recollect his testimony and that he was familiar with its contents at the time it was filed.

The **CHAIRMAN**: The Chair would suggest one additional question to the Auditor on that exact point.

Q. (By Mr. Brown) Mr. Hayford, when Mr. Cowan was making his report on the trust funds, do I understand you to say that you collaborated with him at that time?

A. Yes, he came to my office several times because he learned that I had made quite an extensive report on the origin of these trust funds to Governor Gardiner at his request in 1929, and Governor Gardiner, as a result of that report, transmitted it to the Legislature, and if you will consult your 1929 session laws you will find my report as forwarded to the Legislature by him in total.

Q. Were the trust funds which the State had at the time of Mr. Cowan's investigation practically the same trusts which existed at the time you made your investigation in 1925?

A. Very much the same. There have been additions of course; there are additions constantly.

Mr. BROWN: Now I submit, Mr. Chairman, that this witness is qualified to testify because it is apparent that from an investigation of his own, aside from his collaboration with Mr. Cowan, that he had an intimate knowledge of the facts.

The CHAIRMAN: So long as the report, so-called, is used purely to refresh the witness' own memory, the Chair feels that it is proper.

Mr. BROWN: That it is proper.

The CHAIRMAN: That it is proper.

For the sake of the record, Mr. Brown, you might guard Mr. Hayford's answers to the fact that his own memory is refreshed by the use of the memorandum.

Mr. BROWN: I will state to the Convention that I am basing my questions on the report in Page 61 of the Auditors' report.

Q. (By Mr. Brown) Mr. Hayford, if you will turn to Page 61 of the Auditors' report, which lists thereon the trust funds of the State.

Is the Helen A. Gilman Legacy under "Augusta State Hospital" a permanent trust fund?

Mr. GILLIN: I object to that, if the Chair please. The best evidence of that is the document, and so far this witness has not testified he has made a study of the document or resolution or whatever it was.

The CHAIRMAN: The Chair understood that the witness did testify to a limited extent as to his study. Perhaps an additional question along that line might clarify it.

Mr. BROWN: He stated, as I understood it, he had made an exhaustive research into this matter, not particularly what he had done.

Q. In your investigation of the trust funds of the State did you make a study of the original indentures which were set up?

A. Yes, I think I made somewhat of a study of the intentions of the donors in all cases of the purposes for which the trust funds were set up.

The CHAIRMAN: The Chair feels that the question is admissible in any case where the witness will testify that he did examine the set-up of the trust funds.

Mr. GILLIN: Mr. Speaker, the witness has answered that he thinks he did. I suggest that on each trust fund he be asked to be specific.

Q. Now, the Helen A. Gilman Legacy, did you make an examination of the original trust in that case?

A. That was a resolve, as I recall it, by which someone left one thousand dollars to the Augusta State Hospital for certain purposes. I don't recall what the purposes were.

Q. But do you know that the fund was left for a particular purpose to the Augusta State Hospital?

A. Yes, sir; the income only to be expended.

Q. For any particular purpose?

A. I couldn't say now what the purpose was without looking it up.

Q. Well, I will ask you to refresh your recollection from Mr. Cowan's report on that point.

A. This book which Mr. Burkett just handed me—

Q. If you will speak into the microphone, Mr. Hayford. Otherwise we cannot hear you.

The CHAIRMAN: The Chair will state that it might save considerable time if the witness were asked to refresh his memory if he is able to testify that at that time he made a study of this trust fund. He need not be asked at this time to give the original intention.

Q. Mr. Hayford, it appears that the investment under the Helen A. Gilman Legacy would be a legal investment anyway under the statute so I will inquire of you only as to the legacies which I have checked here which appear to me to be illegal. So we will pass to the Coburn Fund under the Augusta State Hospital. And I ask you now, are you familiar with the purpose for which the Coburn Fund was set up

as described in the original document?

A. Yes, sir.

Q. Now, giving the attorney a chance to object if he wishes, is the Coburn Fund which appears under Augusta State Hospital a permanent trust fund?

Mr. GILLIN: I object to that. Let him state the fact instead of his conclusions. The best evidence, of course, is the documents but I am not insisting on those. But I prefer that the witness state facts instead of his opinion.

Mr. BROWN: This is my position, Mr. Chairman, that this witness, in view of his position as former State Auditor and because of his statement that he has made examination of the trust funds, is competent to answer on these matters and in order to save time I will say that I think he is qualified to state whether or not it is a permanent trust fund because he has already stated, if I recall his former testimony, that he made an examination and that he knows the conditions and the purposes for which these trust funds were set up. So that I should not be compelled in every one of these items to go into the exact purpose of the trust fund and I am entitled to rely upon his opinion as to whether or not it is a trust fund.

(Question read)

The CHAIRMAN: The Chair suggests that you include in your question, Mr. Brown, the question whether he did examine that particular fund in 1925 or at some particular date and then formed his opinion. And Mr. Gillin may introduce such evidence as he wishes and may argue that Mr. Hayford is wrong.

Mr. GILLIN: Mr. Chairman, my objection first was to the saving of time. As I see it, some of these funds may not be, and I don't think they are, permanent funds. The introduction of evidence as to the portfolio in such cases would obviously work injustice if they are not trust funds. This man, because he has been a State Auditor and at one time or another has examined documents in collaboration with a report, is of no particular value as a witness in this matter. I do not understand that he is qualified to pass on the question of whether a trust fund is permanent or not and I might suggest that the necessary

preface to that opinion has not been established because it has not been defined as a permanent trust fund. His definition might be wrong. Not for the purpose of being technical but because I understand that the prosecution desires to examine into some of these funds and they must first show that they are permanent trust funds. I am prepared to show that some of them are not.

The CHAIRMAN: The Chair understands that the witness has stated that he had examined the original indentures. The Chair will ask the witness for his definition of the term "permanent" in connection with these trust funds.

Mr. HAYFORD: I do not recall that I have approached this study from the angle of determining in my own mind whether these funds were permanent or not. I had considered that probably most of them were permanent.

Mr. GILLIN: I object to that, if the Chair please, and I suggest the witness is disqualified, having admitted that never up until now has he ever approached them with the idea of determining whether they are permanent.

The CHAIRMAN: The Chair will rule out an answer to the question at the present time.

Q. Mr. Hayford, have you made a study of the documents which set up these trust funds?

A. No, I did not make a study of the documents themselves but I did make a study of the resolves and any evidence which appeared in the laws of the State, either private and special resolves or statements of facts accompanying the resolves, on these matters. I do not recall that I examined the original indenture. That is, I did not go to the Probate Court to look up Adam Coburn's will, if that is what you mean.

The CHAIRMAN: The answer that is disturbing the Chair as well as counsel for Mr. Smith is the answer, as the Chair understands it, that the witness never examined these particular funds from the standpoint of whether or not they were permanent. If Mr. Brown can qualify that answer the Chair will entertain the question. Otherwise the Chair feels that the witness has disqualified himself from answering along these lines.

Q. Mr. Hayford, do you know the purposes for which these trust funds were set up?

Mr. GILLIN: I object to that.

Mr. BROWN: He can answer that Yes or No.

(Question read)

Mr. GILLIN: I object to that on the grounds that the man has admitted he has not read the original indentures from which only could be obtained the information.

The CHAIRMAN: The Chair understood that to be a general question. Limiting it to this particular case the question can be answered Yes or No.

(Question read)

The CHAIRMAN: This question being limited to the Coburn Fund.

A. Yes—

Mr. GILLIN: I object to that, if the Chair please, until he goes further and shows a basis for his answer which can only be done by an examination of the documents which created that Fund.

Mr. BROWN: I will ask him, Mr. Speaker, as to just where he got his information.

The CHAIRMAN: The Chair feels that the witness may answer Yes or No.

(Question read)

Q. Referring to the Coburn Fund, can you answer that Yes or No?

A. Well, I doubt if I can answer it Yes or No.

Mr. BROWN: Mr. Speaker, I am now going to ask the Chair to be permitted to call Representative Frank Cowan to testify on this particular matter if he is qualified.

Mr. GILLIN: I object.

The CHAIRMAN: The Chair rules that Representative Cowan is a proper witness and if counsel desires authorities based on the case it is 5 Maine, Page 335.

Mr. GILLIN: May I have an exception noted.

The CHAIRMAN: Certainly. The exception is noted.

Mr. GILLIN: Mr. Chairman, may I be accorded the privilege of stating a little more fully my objections to Mr. Cowan as a witness?

The CHAIRMAN: The Chair thinks this is entirely proper.

Mr. GILLIN: I object, Mr. Chairman, and protest against the Chair's ruling admitting Mr. Cowan as a witness, he being a member of the Joint Convention who up until this time has constituted a part of that Convention for the purpose of considering the charges here and having taken a part in the Convention, listening to the evidence up to this point. He is now leaving the Con-

vention, under ruling of the presiding officers, and is being permitted to testify as a witness, and my protest involves the legality of the proceedings of this Convention by such rulings on the part of the Chair and by reason of Mr. Cowan's testimony being admitted over protest of counsel.

The CHAIRMAN: Counsel has his exceptions.

FRANK I. COWAN, Sworn

Direct Examination

(By Mr. Brown)

Q. What is your name?

A. Frank I. Cowan.

Q. And you live in Portland?

A. Yes, sir.

Q. Were you engaged a few years ago to make an investigation of the trust funds of the State?

A. I was.

Q. And how were you employed; that is, by whom?

A. By the Attorney General at that time and by Governor Gardiner.

Q. Attorney General Robinson?

A. Attorney General Robinson; yes, sir.

Q. And as a result of his request did you make an exhaustive investigation in regard to the trust funds?

A. As a result of his request and the instructions of Governor Gardiner.

Q. Did you go into the nature of those funds?

A. I did.

Q. And the purposes described in those particular funds?

A. I did.

Q. And did you make a report of your investigation to Attorney General Robinson?

A. I made a report to the Governor and Council through the office of the Attorney General.

Q. Do you have that report with you now?

A. I have a copy of the original report.

Q. With reference to the Coburn Fund under Augusta State Hospital, do you know the purposes of that fund?

A. I do.

Q. Is it a permanent trust fund?

Mr. GILLIN: I object to that until the witness gives his understanding of what a permanent trust fund is.

Mr. BROWN: Mr. Cowan, what do you conceive the definition to be of a permanent trust fund?

A. I will answer that, to assist counsel on both sides, in this way: I procured all available original documents. Where the original documents were not available, I procured certified copies from the various places where they might be found. Where they could not be obtained, I got witnesses, questioned them and got information in regard to the set-up of the fund.

In regard to this particular fund, the Coburn Fund you are asking now about, I procured a certified copy of the will of Abner Coburn and incorporated in my report, which is an official document of the State of Maine, a copy of so much of that original will as applied to this particular fund. That is found on Page 19 of my report.

Q. Pardon me for interrupting. I think the question is: What is your definition of a permanent trust fund?

A. A permanent trust fund, in my opinion, is a fund that probably will not terminate at any definite time; that is designed to be so set up and held that the fund will be retained perpetually and so much of the income used for the purpose specified. There are modifications to that.

Q. I now ask you, is the Coburn Fund, under Augusta State Hospital, a permanent trust fund?

A. It is. I want to make a correction. The Coburn Fund is found on Page 19 of my report instead of Page 22.

Q. Is the Coburn Fund under the University of Maine a permanent trust fund?

A. May I have a copy of the auditors' report?

(Report handed to witness)

Mr. COWAN: May I have the question read?

(Question read)

A. It is. It is found on Page 41 of my report.

Q. Is the Land Grant Fund under University of Maine a permanent trust fund?

A. In my opinion that is not.

Q. Is the Carleton Fund under University of Maine a permanent trust fund?

A. It is.

Q. Is the Valora Chase Fund under Central Maine Sanatorium a permanent trust fund?

A. It is.

Q. Is the Minnie E. Jones Be-

quest under Central Maine Sanatorium a permanent trust fund?

A. I can't say. It is a peculiar document under which that exists.

Q. Is the Levi M. Steward Fund under Western Maine Sanatorium a permanent trust fund?

A. It is.

Q. On Page 62, Mr. Cowan, there appears an Administration Account under State Military and Naval Children's Home. Is that a trust fund?

A. It is.

Q. Is it a permanent trust fund?

A. In my opinion it is.

Q. Is the Children's Account under State Military and Naval Children's Home a permanent trust fund?

A. In my opinion it is.

Q. Is the Penobscot Indian Fund a permanent trust fund, on Page 64?

A. In my opinion it is a fund created under special treaty with the Indians.

Q. Is the Passamaquoddy Indian Fund a permanent fund?

A. In my opinion it is.

Q. Is the Permanent School Fund a permanent fund?

A. I believe not.

Q. Are you familiar, Mr. Cowan, with the type of securities held in each one of these funds?

A. Yes, sir.

Q. Referring back to the Coburn Fund under the Augusta State Hospital on Page 61 of the auditors' report, are there in that fund \$25,000 in bonds of the Portland Water District?

Mr. GILLIN: I object to that.

The CHAIRMAN: The question is, whether the witness is qualified to answer. So far he has not qualified as an expert. I do not know as he would want to answer.

Q. I asked him if he knew.

A. I have not, Mr. Brown, checked on the present investment of the Coburn Fund beyond what appears in the report of Ernst and Ernst.

Q. What was the latest date you were aware of the securities in the then portfolio?

A. I have not examined the portfolio since 1932. Any information I have in regard to present investments is taken entirely from the report of Ernst and Ernst. I will go further and say, and from conversation with Mr. Winship and Mr. Hayford in the last two or three days.

The CHAIRMAN: The Chair rules that the witness cannot answer the question.

Cross Examination

(By Mr. Gillin)

Q. With respect to the Penobscot Indian Fund, in the auditors' report that is set up as consisting on that date of \$74,974.19 worth of cash in banks and \$14,815.09 of municipal securities, a total of approximately \$100,000: You examined, you say, and formed your opinion of the permanency of this fund on a treaty with the Indians?

A. The answer to that is Yes, Mr. Gillin, but it could be very much enlarged.

Q. What was your opinion as to the correct amount the State owes the Indians under that fund?

A. As far as my investigation went, the total amount as set out in my report is approximately \$88,000.

Q. Would the construction of the treaty permit the conclusion that the Indians might be entitled to more than a million dollars?

A. Yes, it is very possible.

Q. Would the construction of the treaty indicate that the Indians might be entitled to five or six million dollars?

A. It is very possible.

Q. What is your opinion?

A. I have carefully refrained from arriving at any opinion because I didn't make a thorough investigation of the subject.

Q. You thoroughly examined the treaty on which the nature and extent of the fund was based?

A. I examined the treaties—there are three, as a matter of fact, and several acts of the Legislature of Massachusetts and Maine, but I didn't cover all of the dealings with the Indians from 1786, I think, down to 1931.

Q. Have you ever expressed it as your opinion that the Indians were entitled to \$7,000,000 under the treaty?

A. I have suggested it might be true.

Q. Is it your opinion now?

A. I think it possible.

Q. You think it is probably true?

A. I said it might be possible.

Q. What about the treaty makes it permanent within the definition you have given it?

A. You are calling on me for a very extensive refreshing of my recollection. There are many pages.

Q. Can you pick out some salient point to make this brief, and turn to the point as to whether the fund comes within the definition you have given us?

A. In the treaty between the State of Maine and the Penobscot Indians dated April 17, 1820, there is confirmation of an earlier treaty between the Commonwealth of Massachusetts and the Indians, and in the 1820 treaty appear these words, "and the undersigned commissioner on his part in behalf of said State of Maine in consideration of the premises and the foregoing covenants and engagements of said treaty does hereby covenant with said Tribe that they shall have and enjoy—

Q. Excuse me, but can't you paraphrase it in a brief paragraph?

A. I would have to go over this.

Q. Then I will withdraw the question as it would take too long. With respect to the Military Children's Home in Bath, that was originally a volunteer organization of ladies of Bath who undertook to take care of Civil War veterans' children, was it not?

A. I find in my supplemental report which is an official document, on Page 5, the following language, and beyond that I am not at this moment able to recall: "the fund is expressly for the children and is not in any way to be connected with expense of administration." I gave as my opinion that it is a permanent fund. I do not find more pertinent language.

Q. Do you know that \$70,000 of that fund has been expended for buildings?

A. There are two funds. One is for the children as I recall it, but I shall have to check up on that. One fund is for the Children's Home and the other fund is for the children, themselves. On Page 17 of the report appears this language, "The Asylum had funds which cannot now be traced, having a book value of \$16,000." And farther down, "this fund has no known conditions attached save it is for the benefit of the Naval and Military Children's Home". On Page 67 of the report appears the public laws of 1929, chapter 254, section 3, "Trust fund to be turned over to

Treasurer of State. The trustees shall pay over to the Treasurer of State all trust funds of said institution and the Treasurer shall invest same as provided by chapter 222 of the public laws of 1923, which is now Revised Statutes, chapter 2, section 36. The income from said fund shall be available for expenses of said institution." On the basis of that, it seemed to me the Legislature had, itself, made it a permanent fund.

Q. But you grant there was a right to expend necessary amounts which might have exhausted—

A. There is a plain wording of the statute—

Q. I will withdraw the question. Did you examine the portfolio of the fund?

A. Yes.

Q. What did it consist of then? Classify it, if you will, as to whether it was confined to time deposits in savings banks, government and municipal bonds, and whether it included utilities or private corporation securities?

A. In 1931 that fund was invested as follows: Deposited in a savings account, Augusta Trust Company, \$2,261.62. Bonds as follows: Galesburg Ry. & Lt. \$4,000; Portland Rr. Co. \$2,000; Topeka Ry. and Lt. \$500; Leadville Water Co. \$1,000; United Public Utilities Co. \$500; U. S. A. 1st Liberty Loan, \$2,000.

Q. At the time did you make any recommendation as to changing the portfolio?

A. I did.

Q. What was the recommendation?

A. As soon as practical, all funds not invested in accordance with the statute be reinvested.

The CHAIRMAN: What was the date of the recommendation?

A. 1931.

Q. So you do not know the history of the creation of the State Military Children's Home?

A. No, I could not find out.

Q. If it was a voluntary association which later became incorporated for the purpose of assisting the orphans of Civil War veterans, funds for which came from private subscription, membership dues, legislative appropriations, and if later the original purpose was

shifted to include the orphans of soldiers of wars, and later changed to include orphans generally, would you consider that constituted a permanent fund?

A. Yes, I do, Mr. Gillin.

Q. In that report did your duties or did your assignment specifically include a determination and report as to what were or what were not permanent funds?

A. Yes, it did.

Q. You would not have the wording of that assignment, would you? The undertaking to report on this fund was assigned by Governor Gardiner?

A. My instructions were wholly verbal.

Q. You say they did include furnishing your views as to what were or were not permanent funds?

A. I didn't say that.

Q. Were the instructions given you, or did instructions which were given you direct you to include in your report your opinion as to what were or were not permanent funds?

A. My instructions were to make as comprehensive a study as possible of all permanent funds of the State.

Q. That wasn't answering my question.

A. I am, to the best of my ability.

Q. Can you answer categorically to this, whether or not the verbal instructions you received directed you or instructed you to direct your opinion as to what were or were not permanent funds?

A. My express instructions were to make a careful investigation of all permanent trust funds of the State and make report.

Q. Did you, in the report, set out your opinion as to what were or were not permanent trust funds?

A. I did not.

Q. You did not?

A. No.

Q. Why didn't you?

A. There was no reason why I should.

Q. That is, you were not instructed to?

A. The report itself contained all of the information available. The report was directed to the Attorney General for delivery to the Governor and Council and the Attorney General's office would have all

information necessary and available to the Governor and Council.

Q. Well, recalling now what you have stated, that the report did not include the finding on your part, based on an expression of opinion, of what were permanent trust funds, you now agree you were not instructed to so report?

A. If by your question, Mr. Gillin, you mean to ask me: Did I have specific instructions to inform the Governor and Council which of these were permanent funds and which were not, I will say I did at the beginning, that my instructions were to make a careful investigation of all permanent trust funds and make a report, and I did.

Q. Thank you.

The **CHAIRMAN**: Have you any further questions, Mr. Brown?

Mr. BROWN: No, Mr. Chairman.

The **CHAIRMAN**: The Chair will declare the Convention at ease.

Mr. COWAN: Mr. Chairman, may I speak in my own defense?

The **CHAIRMAN**: The record shows that you were called by the Plaintiff. If there is no objection by the Convention, Representative Cowan wishes to make a statement. Is there objection?

Mr. GILLIN: I object, Mr. Chairman.

The **CHAIRMAN**: The Chair rules that objection must be by a member of the Convention. You may take exceptions if you wish.

Mr. GILLIN: May I note exceptions?

The **CHAIRMAN**: Certainly. Exception noted.

The Chair understands that the statement does not involve in any way the evidence in this case.

Mr. GILLIN: I do not know what the gentleman has in mind, but, as I see it, it does involve irregularity of procedure.

The **CHAIRMAN**: The Chair understands the statement is in the nature of personal privilege rather than evidence in the case.

Mr. GILLIN: I object to anybody in this proceeding being permitted to address the Chair on a question of personal privilege, which is a privilege accorded only under parliamentary law and which is not applicable in a proceeding of this nature.

The **CHAIRMAN**: It can only be done by unanimous consent of the members of the Convention.

Mr. GILLIN: May I note an objection and reserve an exception to the Chair's ruling?

The **CHAIRMAN**: Is there objection? The Chair hears objection.

The Chair will declare the Convention at ease for ten minutes.

Convention at Ease

After Recess

The Convention was called to order by the Chairman.

Mr. BROWN: Mr. Speaker, I think we have saved a lot of time during this recess. I have reached the stage of the case now where, having established what funds are permanent funds, it becomes necessary for me to introduce the types of securities that are held in these particular portfolios and Mr. Gillin has agreed with me that I may read into the record the securities as they appear in the auditors' report as of June 30, 1939. If I am correct—and if I am not, Mr. Gillin may check me—

IT IS STIPULATED and agreed that the securities appearing under the particular trust funds which I will read from the auditors' report were in the portfolios of those particular trust funds as of June 30, 1939.

Mr. GILLIN: Mr. Chairman, I shall not object to that form of evidence. I am permitting it to go in in this form but I reserve all my rights of objection to the evidence itself.

The **CHAIRMAN**: Certainly.

Mr. GILLIN: I do not object to it being presented in that form.

The **CHAIRMAN**: The Chair will suggest that the stenographer better take all identifying marks, taking them from the auditors' report. Unless counsel objects, the stenographer had better include all identifying marks of the securities listed.

Mr. GILLIN: I would be willing to have the stenographer given the list unless you want it read in the record. My only interest is to save time.

The **CHAIRMAN**: By agreement of counsel the stenographer will incorporate in the record the securities as listed in the auditors' report under the items to be named by counsel.

Mr. BROWN: The first one is the Coburn Fund, under Augusta State Hospital.

Augusta State Hospital

Ceburn Fund			Cash	Securities
25,000	Portland Water District	3%—1954		25,000.00
25,000	City of Waterville, Maine	4%—1941/55		25,000.00

Mr. BROWN: The second fund is the Levi M. Stewart Fund, under Western Maine Sanatorium, on page 62.

Western Maine Sanatorium

Levi M. Stewart Fund			Cash	Securities
	Rumford National Bank, Time Account		5,000.00	
	Rockland Savings Bank		8,000.00	
5,000	City of Cambridge, Massachusetts	4 %—1940		5,000.00
2,000	Portland Terminal Company	4 %—1961		2,000.00
5,000	State of Maine Highway and Bridge, Issue of 7/1/23—	4 %—1942		5,000.00
5,000	Hancock County, Hancock-Sullivan Bridge—	4½ %—1939		5,000.00
5,000	Southern Pacific Company—Oregon Lines—	4½ %—1977		5,000.00
5,000	Pittsburgh and West Virginia Railway Company—	4½ %—1960		5,000.00
5,000	Canadian National Railway Company—	4¾ %—1955		5,000.00
5,000	City of Ellsworth, Maine—	4¼ %—1939		5,000.00
5,000	State of Maine Highway and Bridge Loan, Issue of 9/15/26—	4 %—1942		5,000.00
5,000	Phillips Water Company—	4½ %—1956		5,000.00
5,000	Town of Danforth, Maine—	4½ %—1943/5		5,000.00
3,000	Town of Littleton, Maine—	4 %—1955/6		3,000.00
5,000	Republic of Cuba—	5½ %—1945		5,000.00

Mr. BROWN: That makes a total of \$13,000 cash and \$60,000 securities.

The next fund is Administration Account under State Military and Naval Children's Home.

State Military and Naval Children's Home

Administration Account			Cash	Securities
	Depositors Trust Company, Augusta		\$1,210.35	
	Augusta Savings Bank, Augusta		3,000.00	
	Augusta Trust Company, Augusta		1,351.75	
2,000	Portland Railroad Company	3½ %—1951		\$2,000.00
1,000	Leadville Water Company	5%—1940		1,000.00
250	United Public Utilities Corporation	6%—1960	}	250.00
5	United Public Utilities Corporation U. T. C.			
5	United Public Utilities Corporation No par			
37.50	United Public Utilities Corporation—Interest Scrip			

Mr. BROWN: Mr. Chairman, I propose now to take up the second count from the information which involves the protested checks.

Mr. GILLIN: Mr. Chairman, I notice that Mr. Cowan, who recently testified on the stand as a witness, is seated on the floor of the Convention. In order to properly protect our rights, I must at this time protest against his being a member of this Joint Convention at any of its further proceedings or taking part in these proceedings at either of the legislative sessions of the two bodies when they separate. I object to his being present on the floor and taking part.

The CHAIRMAN: Your remarks will be noted in the record. The Chair rules that Mr. Cowan is entitled to remain in the Convention. The question as to whether he should debate and vote at the future proceedings is for determination at that time.

Mr. GILLIN: May I have exceptions noted?

The CHAIRMAN: The exceptions will be noted in the record.

LILLIAN B. CHASE, Sworn

Direct Examination

(By Mr. Brown)

Q. Will you state your name, please?

A. Lillian Chase.

Q. Where are you employed, Miss Chase?

A. Augusta, Maine.

Q. Are you employed at the State House?

A. Yes, sir.

Q. In what office?

A. State Treasurer's office.

Q. How long have you been employed in the State Treasurer's office?

A. Since July, 1933.

Q. What are your duties in connection with that office?

A. Since 1937 I have been Tax Clerk and Assistant Cashier.

Q. Among your duties, is one of them to take care of protested checks when they come back from the bank?

A. Yes, sir.

Q. And what is the course of your procedure in regard to the handling of those protested checks?

A. These checks are returned to us from the bank and a charge is made on our bank account. At the same time a duplicate charge is sent to the Reconciliation Clerk in the

Controller's office. We make a memo of this check and send the check back to the department that deposited it with us for collection.

Q. By the way of explanation, Miss Chase,—and this may seem leading but I do not think counsel will object—the various departments of State, such as the Highway and Secretary of State's office, and the rest, send their revenue into the Treasurer's office, do they not?

A. Yes, sir.

Q. It comes in the form of checks and currency?

A. Yes, sir.

Q. The Treasurer's office then deposits the checks and currency to its account in the Depositors Trust Company?

A. Yes, sir.

Q. The checks that are protested are returned to the Treasurer's office?

A. Yes, sir.

Q. And it is a part of your duty to handle them, is that correct?

A. Yes, sir.

Q. With that background, will you just state again what you then proceed to do with those protested checks?

A. We make a memorandum of them and return them to the departments and the departments are responsible for collecting the checks and returning the money to us.

Q. The department that sent them to you in the first instance?

A. Yes, sir.

Q. Do you keep a record of those protested checks in your office?

A. Yes, we do.

Q. Did you prepare for me, at my request, a list from your records of the protested checks which still remain unpaid?

A. Yes.

Q. Have you totalled that list?

A. Yes, I have.

Q. Will you state the amount, the total amount of uncollected protested checks?

A. The total amount—

Mr. GILLIN: Just a moment, I object to proving the checks by this lady testifying as to the total. That is not best evidence as to the amount of the checks, either individually or in total. Are the checks available? There is detail on these checks which should go into the record.

Mr. BROWN: Mr. Chairman, many of these checks cannot be located. I have had a search made.

I take this position and I feel it is correct. We are attempting to show that there was a failure on the part of the Treasurer's office to collect these checks, and the evidence which we offer are the records of that office. The records of the office are here and offered to prove the very things.

The CHAIRMAN: Is it possible, Mr. Brown, to offer one or two checks?

Mr. BROWN: Yes, I can in fact offer a great many checks. There may be a hundred or two. There are many that cannot be found.

The CHAIRMAN: The Chair will inquire whether the offering of a small number of checks would suit the purposes of counsel.

Mr. BROWN: As I understand the objection of the defense, it is that Mr. Gillin will request the production of every one of those. The fact that I might produce three or four would not satisfy his objection.

Mr. GILLIN: My objection is simply this, the State has undertaken to show the present status of some protested checks which come into that department. It has been already testified to, those protested checks are sent to various departments for collection and it might be some of the protested checks which this girl made up some time ago have been paid since. Further than that, the distribution of those checks—on what department they were drawn and what amounts they are, I should like to have in the record. So far as presenting the evidence is concerned, if Mr. Brown will present such checks as he has, and I have had no knowledge until I just asked, whether they were available or not, and didn't ask that until after I objected, I would be glad to check through the checks and eliminate the necessity of reading them, but I would like to satisfy myself that they are checks which are proper to come in as checks that have been protested and returned; but I do object to a discussion of the protested checks unless they come into evidence. I object on the ground it is not correct evidence, it is not competent evidence and there has been no basis, no rules of evidence for the production of such evidence in this secondary form.

The CHAIRMAN: Ruling on the admissibility of the evidence, the Chair would suggest to Mr. Brown

the desirability of producing a few—

Mr. BROWN: May I ask a few more questions, Mr. Chairman, before I continue with this?

Q. Miss Chase, when the protested checks are returned to your department, do you make a record of them?

A. Yes, sir.

Q. Do you make a record of the date of the protest?

A. Yes, sir.

Q. And the amount of the check?

A. Yes, sir.

Q. The department from which it came?

A. Yes, sir.

Q. And the maker of the check?

A. Yes, sir.

Q. And the bank on which it was drawn?

A. Yes, sir.

Mr. BROWN: Now, I submit, Mr. Chairman, here is a record of the Treasurer's own office and I must insist on this, that he is bound by the record of the office. I cannot see where there is any justification for him to complain that the records of his own office are not accurate. This witness has stated it is her duty to make a record of the protested checks that come back to her and she has them recorded as to dates, amounts, department, makers of the checks and the banks on which they were drawn, and I will ask this one question,—

Q. Miss Chase, in compiling this list which you now have from your record, what periods of time did you cover?

A. Back to 1933.

Q. And up to what date?

A. Up to the present time, 1940.

Q. And at the time that list was compiled, did it include any checks that had been paid? What I mean, did you check this very thoroughly at the time you made the list to see that the checks appearing on there were still unpaid?

A. Yes.

Q. When did you make the list?

A. I made it last Saturday for you.

Mr. BROWN: I submit, Mr. Chairman, if the checks were in here they would show no more than is shown from this list except the checks would be here instead of Mr. Smith's own record. That is the best I can do and I do not know how I should be required to do more.

Mr. GILLIN: I will insist on my stand the Chair can do as it wishes. Might I be allowed to interrogate the witness out of order to clear up my point?

The CHAIRMAN: Certainly.

Examination by Mr. Gillin:

Q. Miss Chase, you testified the system of handling protested checks which come to the Treasurer's department, after you have made a record and sent to the Controller, is to send the checks out to the various departments which received them originally?

A. Yes.

Q. And a majority of the checks come in from the Automobile Registration Bureau?

A. Yes.

Q. Mostly \$2.00 checks?

A. No, they are not. We have in some instances checks that amount to over \$100.

Q. But there is a tremendous number of \$2.00 checks?

A. Yes, there are.

Q. Then such checks as you have on that list—I will withdraw that question. Most of the checks are from that department?

A. Yes, they are, but I have no knowledge of the checks before 1937 because I have been handling them only since 1937.

Q. So you personally have no knowledge before 1937?

A. No, I have not.

Q. The point is, you have no way of knowing some of the checks on the list prepared last Saturday may long since have been collected by some department around the State?

A. No, I have not.

Q. So you cannot say that this list prepared for Mr. Brown correctly reflects what checks are unpaid and what checks are paid to date?

A. No, I can not.

The CHAIRMAN: The Chair understands some of the checks are available and to that extent could be used.

Mr. GILLIN: I have no objection to using checks which are available, but I do object on any checks which this girl says she can not tell whether are paid or not.

Mr. BROWN: Mr. Chairman, this resolve was drawn up on a particular day last week and the State Treasurer is charged with the matters therein stated. Now, I think it must be considered as a matter of fact that he is requested

to meet those charges as they stand at the time of the information.

The CHAIRMAN: Counsel may inquire of the witness as to whether the records may contain information Mr. Gillin asked her.

Mr. BROWN: I thought I did inquire.

The CHAIRMAN: The Chair understands Mr. Gillin's objection to be that those checks listed in her records may have been paid.

Mr. BROWN: I misunderstood. I felt she testified she was positive the checks listed on her sheets had not been paid at the time she compiled her list and she so stated. I will ask her again.

Q. Miss Chase, at the time you prepared your list of protested checks, did you make an examination to determine whether any of the checks appearing therein had been paid?

A. I didn't make any examination. I just took it from my records. Since then checks have been taken care of that have been brought in to me.

The CHAIRMAN: When was the list compiled?

A. Last Saturday afternoon. Since then there have been \$143 worth of checks taken care of from the list. That list changes each day.

Q. Any time one of these checks is paid, would you know it?

A. Not until they brought it in to me.

Q. Well, when these checks are paid, are they paid at the different departments?

A. Yes.

Q. Is it customary for the department to make immediate report to you that they have received the cash?

A. I do not know if they make it immediately or not.

Q. Within the course of a day or two?

A. I would not know that.

Q. At the time you made up your report, your list, your records reflected that the particular checks therein listed had not been paid, is that correct?

A. Yes.

Q. That was last Saturday?

A. Yes.

Q. You have since learned that one hundred and some odd dollars of those checks had been paid?

A. Yes, sir.

Q. Are you so able to testify?

A. Well, I feel I can testify in regards to the checks I have handled since 1937, but beyond that I could not.

Q. There is a record in the Treasurer's office of the 1937 checks?

A. We merely make memorandums of the checks. These records are all—all amounts are carried by Miss Maddocks, the reconciliation clerk because she balances the bank accounts and has occasion to use them. The only record we have is a memorandum.

Q. You have a book in your office?

A. Yes, but it is not totaled at any time.

Q. The record of the individual checks are kept?

A. Yes.

Q. It is your duty in connection with the office, to keep the record?

A. Yes.

Q. You have made up a list from the record?

A. Yes, but I have—

Q. You made up a record of the list as it was up to last Saturday?

A. Yes, but I would like to explain that the original list made up on protested checks was made from the Controller's office and in 1933 there were large balances outstanding on closed banks that I know nothing about. I have brought the amounts forward but I have no records of those checks.

Q. You have not included those checks in your list?

A. Yes. They are all included, those balances Miss Maddocks has carried on her accounts since 1933.

Q. Let me see if I understand, she works in the Controller's office?

A. She works in the Controller's office.

Q. You say the list of checks you have which came in to 1937 were taken from her records?

A. Yes, they were. We checked over the records together but from the start there was this outstanding balance of \$300 or \$400 on closed banks.

Q. As far as your records are concerned in your own office, you have compiled in that list only checks which were protested since 1937?

A. No, I have not.

Q. As shown on your records?

A. I have compiled the list from 1933, starting from the balance

that Miss Maddocks had on those various banks. The majority of these checks outstanding are checks that were way back in 1933, as I understand from Miss Maddocks, and she has been carrying them on her bank balance all this time.

Q. On your list you have some checks listed for 1933, protested checks?

A. Yes, sir.

Q. And you have some for 1934?

A. Yes.

Q. 1935?

A. Yes.

Q. 1936?

A. Yes.

Q. Down to date, down to last Saturday?

A. Yes.

Q. Now those individual checks that would appear for the year 1933, we will say, were not taken from your record in your office?

A. On the First Auburn Trust Company there was \$831.83 being carried by Miss Maddocks as an outstanding charge against closed banks, and that is the balance that I took into consideration. That is not on my books. And under the First National Granite Bank—

Q. Wait a minute. I don't know as I am following you here. You are on the first page of the sheet?

A. Yes.

Q. And the first one you stated was the First Auburn Trust Company?

A. The First Auburn Trust Company. There was the bank balance which we had been carrying of \$831.33 since 1933.

Q. Pardon me just a minute.

The CHAIRMAN: Will counsel come to the rostrum a moment? (Conference off record)

Q. (By Mr. Brown) Miss Chase, if I have properly understood your testimony, you have stated that the checks came in to you from the other departments and they were credited on the books of the Treasurer's office? Is that correct?

A. Yes, sir.

Q. And when they came back, when the protested ones came back from the Depositors Trust Company, you then sent them out to the different departments?

A. Yes, sir.

Q. And were they still carried on the books of the office as cash?

A. Yes, sir.

Q. Are they still carried on the books of the Treasurer's office as cash?

A. Yes, sir.

Q. Now I am going to ask this question, and do not answer it until a ruling is made.

Have you totalled the amount of protested checks as they appear on the records of your office from the year 1933 down to last Saturday?

A. Well, I have the list with the exception of those that I told you that the figures were taken from Miss Maddocks' list. That is included in the list that I prepared for you.

Q. You totalled that list, did you not?

A. Yes, I did.

Q. I am going to ask you to state what the total was?

Mr. GILLIN: I object.

In the first place, this young lady says the list my Brother has been talking about includes figures which are not part of her record but which she obtained from another department. Is that correct?

Miss CHASE: That is correct.

Mr. GILLIN: So that they do not have the virtue of being records in the Treasurer's office and they do not have the virtue of being figures she knows anything about except by hearsay, so that with respect to all the figures on the list which my Brother has which preceded 1937, of her own personal knowledge there is no basis for any evidence as to the amount of those checks. Now with respect to the checks which Miss Chase does know about, which she received in the Treasurer's office and which she posted on a certain date when they were held, she has testified that those checks or a large part of them are now and have been and at the time she made the list were distributed all around the State to hundreds of the various departments of State where they originated, and that it is impossible for her to tell on any given date whether the list from which she makes up her records would show the amount of the checks that come in protested, whether or not those checks, all or any of them, were paid, so that it is impossible for her to make a list.

And may I interrogate her on that point as part of my objection?

The CHAIRMAN: Yes, Mr. Gillin.

Q. (By Mr. Gillin) On any given day you cannot, from your records, make a list of the protested checks which at the time you posted

them you knew were not paid, because on that day those checks or the majority of them are distributed all over the State and you cannot guarantee that the list that you make up does not include lots of checks that have been paid, can you?

A. That is absolutely right, I can't.

Q. So that your list or any list that it is possible for you to make up on any given date is subject to it being demonstrated as incorrect, because the checks outstanding may have been paid to the department which holds them and sends them in when it sees fit?

A. That is correct.

Mr. GILLIN: Now then, I object to any total which Miss Chase gives of outstanding checks, because she has admitted that from her records she cannot tell at any time what that outstanding unpaid amount is.

The CHAIRMAN: The Chair feels the production of a few original checks would be the best evidence. If this witness answers, she will be confined to matters in her own knowledge.

Mr. BROWN: Is the question excluded.

The CHAIRMAN: In the present form, yes.

Q. (By Mr. Brown) Miss Chase, the list which you have made up for the year 1937 would be made from your own records, would it?

A. Yes, it would.

Q. And you compiled this list last Saturday?

A. Yes, I did.

Q. I will now ask you to state the total amount of uncollected checks for the year 1937.

Mr. GILLIN: I object. The question was asking Miss Chase to state the total amount of the protested checks for the year 1937.

Mr. BROWN: The total uncollected.

The CHAIRMAN: Will counsel inquire again whether the witness knows as of the date her total was made whether those checks were uncollected?

Mr. GILLIN: She has stated that at no time can she tell.

The CHAIRMAN: The Chair understood the previous question to be directed to the general total whereas this question is directed to the total for one year.

Mr. BROWN: What I am trying to do, Mr. Speaker, is to show this

year by year, my point being this: Last Saturday it appeared that there was a particular number as to amount of uncollected checks for the year 1937. Now during all that time—

The CHAIRMAN: The witness has testified she does not know that these checks are uncollected even of the date the report was made up. That is the Chair's understanding.

Mr. BROWN: Mr. Chairman, I will let this matter go for now and introduce some checks after dinner, and I will proceed on another count. The witness may be excused.

Mr. GILLIN: Mr. Speaker, I have not even cross-examined Miss Chase, but I will reserve it until after the direct examination is completed.

VINCENT LEDEW, Sworn

Direct Examination

(By Mr. Brown)

Q. What is your name?

A. Vincent Ledew.

Q. You live in Augusta?

A. No, sir, I live in Hallowell.

Q. Are you employed by the State?

A. State Highway Commission.

Q. In what particular capacity?

A. Clerk in the Highway Garage office.

Q. You work over here in the Highway Garage?

A. Yes, sir.

Q. What are your particular duties?

A. Taking care of the pay roll work regarding orders, parts used in the garage, cost accounting regarding equipment?

Q. How long have you been employed in this capacity?

A. Since March, 1935.

Q. Now have there been on numerous occasions purchases made at the State Highway garage by employees of the State?

A. Yes, sir.

Q. And outsiders?

A. Well, not to my knowledge.

Q. Not to your knowledge, do you say?

A. No, sir.

Q. And what is the nature of those purchases?

A. Anything which has to do with motorized parts and equipment.

Q. You sell tires?

A. Yes, sir.

Q. If you will state again, because I do not recollect, when did you first go to work?

A. In March, 1935.

Q. And you have been there ever since?

A. Yes, sir.

Q. Now were there methods or regulations as to the accounting of your department, for the cash it received and so forth, set up by the Controller?

A. I wouldn't know who it was set up by.

Q. Methods were prescribed, were they, for the accounting of your cash?

A. Yes, sir.

Q. Now, will you state just how a sale was made, whom it was handled by and what was done in connection with the cash, as a customary method of operation?

A. Well, whoever would be in the office who happened to be taking care of a customer, would receive the cash and make out a receipt by a form, give one to the customer, keep one and send the other three over with the cash.

(Proponents' Exhibit No. 40, being a sample book of blank receipts as above referred to, marked.)

Q. Now, when sales of articles, commodities, or accessories, as the case might be, were made, you say, a receipt for the cash received was made out?

A. Yes.

Q. I show you Proponents' Exhibit No. 40 and ask you if that is the kind of receipt book which was used in those transactions.

A. Yes, sir; it is.

Q. Will you explain that receipt book and how it functions?

A. The first receipt is given to the vendor, the next three are sent to the Controller's office with the money and this copy is kept in the office.

Q. Does the employee who makes the sale make out the receipt?

A. Yes, sir.

Q. And is he the employee who receives the cash which the receipt represents?

A. Yes, sir.

Q. Are these receipts in quintuplet?

A. Yes, sir.

Mr. BROWN: Proponents' Exhibit No. 40 is offered without objection.

The CHAIRMAN: Without objection?

Mr. GILLIN: Yes, Mr. Chairman.

The CHAIRMAN: Admitted.

Q. Now, Mr. Ledew, just so we can understand each other, when a sale was made over there, would it always be made by you?

A. No, sir.

Q. Would it usually be made by you?

A. If I happened to be in the office, probably.

Q. Who else was there that made sales over there and signed these receipts?

A. While I have been there?

Q. Yes.

A. Frank Marston, Charles Davis, Ernest Ward, Gerald Guest, Earl Combella, Edwin Root, Harold Hopkins and myself.

Q. But would the bulk of these receipts that were issued be signed by you?

A. No.

Q. What percentage of the sales made over there, in your best estimation, would be made by you during the period which you were there?

A. Oh, probably fifty percent.

Q. So you would say that probably fifty percent of the receipts which were issued over there for cash sales, you received the cash and signed the receipts?

A. That is an estimate; yes.

Q. That is your best judgment?

A. Yes.

Q. Now, if you will describe, Mr. Ledew, just what happened with that cash from then on, so far as you know?

A. Follow it through as a single sale?

Q. Yes.

A. After the receipt was made out and given to the vendor the three copies, together with either the cash or check, were given to the Controller.

Q. Who would take the cash over to the Controller, any particular man, any particular employee?

A. At present either Mr. Root or I would.

Q. And what period of time are you speaking of now; from 1935 on?

A. No; 1939 on.

Q. I thought you went to work there in 1935.

A. Mr. Guest worked from 1935 also.

Q. So the cash sales that occurred over there would be taken by you or by Mr. Root during the period of 1939 to date?

A. Yes, sir.

Q. To the Controller's office?

A. Yes, sir.

Q. And how often would you take the cash over?

A. It would vary.

Q. Did you take this cash over to the Controller's office on Mr. Runnells' instruction?

A. Yes, sir.

Q. Now, if you will describe just what you did in preparing the cash receipts to take over to Mr. Runnells. With each individual sale of merchandise you would attach three slips in this book?

A. Yes, sir.

Q. Which coincided with the particular purchase which that cash represented? Is that right?

A. Yes, sir.

Q. And that you took over to Mr. Runnells?

A. Yes, sir.

Q. In what form did you take it? In what kind of a receptacle did you take it?

A. A small brown office envelope.

Q. Now, would that envelope, as a usual proposition, include more than one sale?

A. Yes, sir.

Q. What period of time would the proceeds that were in that envelope ordinarily represent?

A. It would depend on the amount of cash which we had on hand to take over.

Q. Did you usually take that envelope over every day?

A. No, more often it would be every other day. There would be days when we would cash up every day.

Q. Well, would you say you took that envelope with the cash over to Mr. Runnells' office three or four times a week?

A. Yes.

Q. When you took the envelope in to Mr. Runnells' office did you deliver it to him personally?

A. I would if he were there.

Q. Were you instructed by him so to do?

A. Yes, sir.

Q. Was that envelope sealed or unsealed?

A. Sealed.

Q. Was Mr. Runnells usually there when you took the envelopes in to him?

A. The major part of the time, yes sir.

Q. And if Mr. Runnells wasn't there what did you do with that envelope?

A. Give it to Miss Kelley or bring it back until Mr. Runnells got there.

Q. Who is Miss Kelley?

A. Mr. Runnells' private secretary.

Q. So you usually delivered the envelopes to Mr. Runnells personally but there were occasions when you delivered them to Miss Kelley; is that right?

A. Yes, sir.

Q. Mr. Ledew, in regard to these receipts where there was an original and four copies, was there a statement printed on each receipt as to what its destination should be? Was there indicated on each one of those copies and the original who was supposed to get them?

Mr. GILLIN: I object.

(Question read)

Mr. GILLIN: The question is too general because the witness is confining the different operations from 1939 to date whereas this was supposed to be back in the years before. And secondly, again the attempt is being made to introduce the content of document by secondary evidence. This witness has been asked generally to supply the contents of a large group of documents. Now, I would request that the evidence go in by orderly form by the presentation of documents or samples of documents. Otherwise the original documents are the best evidence.

The CHAIRMAN: Are the original documents available, Mr. Brown?

Mr. BROWN: Well, Mr. Speaker, he has identified Proponents' Exhibit No. 40 and stated that that is the kind of receipt book that is used over there and it has been offered and admitted and it is in the case anyway. As far as the objection that it is not the best evidence, it is in the case.

The CHAIRMAN: Well, will you ask your question so that Mr. Gillin can object if he wishes?

Q. I show you Proponents' Exhibit No. 40 and referring only to the first original and the four carbon copies, does it state on the original who is to receive it?

Mr. GILLIN: May I see the blanks?

The CHAIRMAN: Would you object, Mr. Gillin, if the witness read it?

Mr. GILLIN: I am objecting, at the present time, merely for the purpose of seeing the blank.

(Question read)

Mr. GILLIN: As I understand it the witness is being interrogated about a sample form of receipt which is unfilled except for printed inscriptions thereon and he now is asked the question as to whether or not that form indicates who is to receive it. Having before me a sample of the document I object to it, because I would prefer to have one of them read to speak for themselves, because my contention is that it does not and as a matter of fact the reading of it will really determine whether I am right or wrong.

The CHAIRMAN: If the receipt is in evidence, the witness may read the wording on the exhibit without expressing any opinion as to its effect.

Mr. BROWN: Well, I might as well do that myself. Proponents' Exhibit No. 40 is a receipt book which has been identified by the witness as the kind of receipt book used in connection with sales of the State Highway Garage and which receipt contains an original and four copies. It appears that there is printed on the original the following words: "Original to person making payment. This is your official receipt. Please retain it for future reference."

On the next copy is printed duplicate to State Treasurer with money, then to State Controller. Received remittance, and then there is a line on which the State Treasurer signs. There is a place for the date. On the next copy, triplicate for State Treasurer for file. Received remittance, and then a line for the State Treasurer to sign and the word State Treasurer under it, and a place for the date. On the next copy appears quadruplicate to be kept in file of department or institution making collection. On the next copy is printed quintuplicate to be kept in office making collection.

Q. (By Mr. Brown) Now Mr. Ledew, when you made a sale did you give the original to the purchaser?

A. Yes, sir.

Q. I understood you to say you took the next three copies to the Controller with the money?

A. Yes, sir.

Q. And did you retain the last copy?

A. Yes, sir.

Q. So that after one of these books had been completely issued, you had the book left with the copy which you were entitled to retain?

A. Yes, sir.
Q. What was done with the copy?

A. We kept it on file.

Q. Have those copies which you kept on file been examined by the Auditors who have been working here?

A. I believe that they have.

(Proponents' Exhibit 41 marked.)

Q. Mr. Ledew, I show you Proponents' Exhibit 41 and ask you what it is, if you know?

A. It is a receipt book coming from the garage of the copies of our sales.

Q. Does that represent sales that were made by you at the garage?

A. The sales were all made at the garage.

Q. How many receipts does that book contain?

A. Twenty.

Q. How many of the sales shown therein were made by you?

A. Ten.

Q. You personally made ten of the sales set forth in this receipt book which is Proponents' Exhibit No. 41?

A. Yes, sir.

Q. Who made the other sales?

A. Mr. Root.

Q. Did it usually appear that in every one of the receipt books in which all of the receipts have been issued, that you or Mr. Root made the sale? I will withdraw the question. I will ask you this: Did it ever, in your opinion, happen that you made all of the sales in a particular book?

Mr. GILLIN: I object.

The CHAIRMAN: If the witness can answer as a matter of fact.

Mr. BROWN: What I am coming at is this: There are about five thousand of these receipts approximately. I am endeavoring to find out from this witness, because I haven't had an opportunity to go through every one of them. I am endeavoring to find out from him if there would be a possibility of finding in there a receipt book in which he had issued all of the receipts. That is the purpose of my question. It doesn't make any great difference so far as my case is concerned.

The CHAIRMAN: Do you know, Mr. Witness, whether any of these receipt books contain sales made only by yourself?

A. Yes, sir.

Q. (By Mr. Brown) Are there receipt books in those boxes which contain slips which were signed only by you?

Mr. GILLIN: I object to that unless it is demonstrated that he has examined the contents of those boxes. If the witness can state he knows they are in there, I will accept his statement. I would like to ask him a few questions.

Q. (By Mr. Gillin) Will you state, as a fact, that from actual inspection of any of those bundles, there is in any one of them one book of these slips which is made out completely by you?

A. You mean you want me to inspect them?

Q. No. Have you inspected any of those boxes, the documents in them?

A. They all have been in our office.

Q. Do you know from personal inspection which you have made before this, do you know whether or not in any of those boxes there is one book of these receipts all of which are made out by you?

A. I know there should be.

Q. Do you know as a matter of fact from inspection?

A. No.

Mr. BROWN: Let me frame the question this way: If all the receipt books which were issued while you have been employed in the garage are in those boxes, would there be some in which all of the receipts were signed by you?

Mr. GILLIN: I object to that. It is a hypothetical question. Perhaps it would save time if we could have a recess at this time.

On motion by Mr. Spear of Cumberland.

Recessed until 1:15 P. M., Eastern Standard Time.

Thereupon, the Senate retired to its Chamber, amid the applause of the House, the members rising.

In the House

Called to order by the Speaker.

Mr. COWAN of Portland: Mr. Speaker, I rise to a point of personal privilege and ask unanimous consent to address the House for just a moment.

The SPEAKER: The gentleman may state his point.

Mr. COWAN: Mr. Speaker, I wish to ask to be excused from further

action or sitting in this body during this hearing.

The **SPEAKER**: The Chair rules that it is not a point of personal privilege. The Chair understands the gentleman from Portland, Mr. Cowan, asks to be excused from debating or voting as a member of this House.

Mr. **COWAN**: Mr. Speaker, or sitting in this body during this hearing.

The **SPEAKER**: Will the gentleman restate his request?

Mr. **COWAN**: Mr. Speaker, I wish to be excused from all further participation in this hearing in regard to Belmont Smith.

The **SPEAKER**: The House hears the gentleman's request. Is it the pleasure of the House that the request be granted?

(Cries of no, no)

The **SPEAKER**: All those in favor of granting the request of the gentleman from Portland, Mr. Cowan, will say aye; those opposed no.

A viva voce vote being doubted.

A division of the House was had. Forty-five voted in the affirmative, and 63 in the negative.

The **SPEAKER**: Forty-five having voted in the affirmative, and 63 in the negative, the request is denied.

On motion by Mr. Varney of Berwick

Recessed until 1:10 P. M. Eastern Standard Time.

In the House

(After Recess—1:10 P. M.)

Called to order by the Speaker.

The Senate then entered the hall, amid the applause of the House, the members rising, and a Joint Convention was formed.

In Convention

The Convention was called to order by the Chairman.

The Secretary called the roll:

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

Representatives: Arzonico, Ayotte, Bacon, Batchelder, Bates, Belanger,

Bird, Bolduc, Bragdon, Brown of Caribou, Brown of Corinna, Bubar, Burbank, Burgess of Limestone, Butler, Buzzell, Chandler, Churchill, Cleaves, Clough, Cook of Lewiston, Cowan, Crockett, Cushing, Davis, DeBeck, Dennison, Donahue, Douglass, Dow of Eliot, Dow of Kennebunkport, Dow of Norway, Downs, Dwinal, Eddy, Ellis, Emery, Erswell, Farwell, Fernald, Fowles, Good, Goss, Grua, Hall, Hanold, Haskell, Hawes, Hildreth, Hinckley, Hinman, Holden, Holman, Howes, Hussey, Jewett, Jordan, Keene, Labbee, LaFleur, Lambert, Larrabee, Latno, Luro, MacNichol, Mahon, Maxim, McGillicuddy, McGlauffin, McNamara, Melanson, Mercier, Meserve, Miller, Mills, Murchie, Norwood, Palmeter, Payson, Peakes, Pelletier, Philbrick, Plummer, 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, Stilphen, Sylvia, Tardif, Thompson, Townsend, Varney, Violette, Walker, Wallace, Weatherbee, Welch, Whitney, Williams, Winslow, Winter, Worth, Young of Acton.

Absent: Representatives Babin, Barter, Brown of Eagle Lake, Dean, Dorrance, Dorsey, Everett, Fogg, Ford, Hodgkins, Leveque, Lord, Marshall, Merrifield, Noyes, Otto, Paul, Pike of Lubec, Porell, Poulin of Rumford, Ramsdell, Starrett, Stevens, Weed.

(Proponents' Exhibit No. 42, being Report of Examination by Ernst & Ernst, marked.)

Mr. **BROWN**: I propose to offer Proponents' Exhibit No. 42, which is report of audit which has been made on State finances. It may be Mr. Gillin may require me to prove the compilation of that, but without attempting to go into it, if I may be able to avoid it I shall offer it first to see what deduction may be made. It has been stipulated in the record, certain trust funds as set out in this audit, that the securities of certain trust funds we have agreed upon as set out in the audit, were in the portfolio, and for the sake of the record I would like to offer Proponents' Exhibit No. 42 which sets out the nature of those particular securities in the portfolio of the permanent trust funds which have been established.

Mr. GILLIN: I object to the introduction of the audit for that purpose. As I understand it, the evidence which Brother Brown says he wishes that to constitute is proof of a schedule of securities of certain trust funds which I believe are all in the record.

The CHAIRMAN: The Chair understands the only purpose of offering the exhibit is in connection with the securities of the trust fund.

Mr. BROWN: The purpose of offering the exhibit is to show the securities in the portfolio of the trust funds which have been established as permanent trust funds and for no other purpose.

The CHAIRMAN: The Chair understands the information is already in the record. If that doesn't prove to be the case, the record can be corrected.

Mr. BROWN: If I understand it, if the reporter has correctly kept the record, they are in there, then I am put in the position of having—

The CHAIRMAN: The Chair will state—

Mr. BROWN: I am not suggesting that the reporters—

The CHAIRMAN: The Chair will state the record of the hearing, through the work of the reporters and printers, is being kept very closely up to date and the record of the hearing for yesterday was completed and distributed on the desks of the members this morning. The Chair suggests Counsel will have a chance to see if the record of the trust funds is complete before the close of this hearing, and if it proves to be incomplete it can then be taken care of.

Mr. BROWN: I have not yet understood, Mr. Speaker, the reason for the objection to the exhibit which I offer.

Mr. GILLIN: Well, in the first instance it is unnecessary because this morning by stipulation I agreed to permit Mr. Brown to read into the record from this auditors' report the securities in the three trust funds which had been testified to were permanent trust funds and about which he raised question, and the Speaker will recall that I even reserved the right to later, if I saw fit, put in other trust funds, and I requested Mr. Brown for the same privilege of reading from this report. So that my first objection is that it is unnecessary to put into the record this morning. If it is not correctly read, I will be pleased to leave it to Mr. Brown to see that it

is completely and correctly copied in the record, and I won't care to be present when he does it. Now I think that objection is sufficient. I have others if it is not.

The CHAIRMAN: The Chair understands that this is in the record.

Mr. BROWN: Mr. Speaker, if you will recall, I started to read the list of securities in the portfolios of these trust funds which have been established, the present trust funds, and as I went along the suggestion was made through the Chair that I should also include the types of securities because I had not read them; and it was then and there stipulated that the trust fund securities in those particular trust funds should be incorporated in the record as they appear in this audit. So I have driven right to the proposition of relying upon the fact that the reporter will copy those as they are. I insist on my right to put in this offer because it is not in the record. If I remember correctly, it was not even read into the record as to the types of securities. The understanding was that those securities should go in the record fully as they appear in this audit and they are not in there yet unless the reporter has copied them while I was eating my dinner.

The CHAIRMAN: The Chair understood that the reporter would copy from the headings as read by counsel. The Chair will state there will be opportunity to check the correctness of the stenographer's record this afternoon.

Mr. BROWN: I haven't yet got the import of the basis of Mr. Gillin's objection, unless he is just objecting on the ground of duplicity.

Mr. GILLIN: Not duplicity but unnecessary. You are putting in the audit, part of what is already in the record, and, if it is not in the record you have the Speaker's permission and surely you have my permission to see it is correct.

Mr. BROWN: I ask to have it in.

The CHAIRMAN: The Chair cannot see that the audit report is admissible evidence at the present stage of proceedings, there having been no evidence, as the Chair recollects, as to the manner in which the report in printed form was made up.

Mr. BROWN: I was afraid that might be raised and I mentioned that the first thing.

Mr. GILLIN: I did not raise it.

Mr. BROWN: Well, if I am to be driven to prove the authenticity of

this audit, we won't get out of here this summer.

The CHAIRMAN: Mr. Brown, the Chair rules that you may be protected on the extent of the investment in the trust funds.

Mr. BROWN: The Chair then rules that it is inadmissible at this time?

Mr. GILLIN: I might say, in view of the remark that was made, if I objected to it, it might be read. I of course disliked to put Mr. Brown to the burden and to burden the Convention here with the production of every one of these securities individually for the purpose of exhibits, therefore I permitted him to put it in the shortest way.

Mr. BROWN: I do not want to prolong this discussion, my point simply being that I have got to rely entirely that the reporter copies this accurately.

I wish to offer another exhibit and that is section 86 of chapter 2 of the revised statutes of Maine for the year 1930.

The CHAIRMAN: Admitted.

Mr. BROWN: Which prescribes the way in which permanent trust funds shall be invested. Should I have the reporter copy it at this time?

The CHAIRMAN: Does counsel care to read it?

Mr. BROWN: "The Treasurer of State shall hereafter invest all permanent funds held in trust by the state in the legal obligations of the United States of America; the states of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York and Pennsylvania; and the bonds of the several counties, cities, and towns in the several states above named which are the direct legal obligation of said counties, cities, and towns; or may deposit the same on time deposit in banks or trust companies organized under the laws of this state, or of the United States, and not otherwise; provided, however, that this requirement shall not extend to the fund arising from the lands reserved for public uses, which shall continue to be used for the purposes set forth in chapter fifty-eight."

There is one matter that I would like to take up now which may be a little out of order, but I want to clean it up and finish with this particular count, and that is on this matter of protested checks. I think I will only be a very few minutes,

perhaps less. I will call Miss Chase. MISS LILLIAN B. CHASE, Recalled

Redirect Examination (By Mr. Brown)

Q. Miss Chase, you have a list with you, which you spoke about this morning, of protested checks which has been compiled at least from 1937 down to last Saturday from the records of the Treasurer's office?

A. Yes, sir.

Q. I am going to ask you a question and you will refrain from answering it until objection is made.

Have you totalled the amount of protested checks for the year 1937?

The CHAIRMAN: She may answer yes or no.

Miss CHASE: Yes, I have.

Q. (By Mr. Brown) What was that total?

Mr. GILLIN: Now I raise the same objection that I raised this morning, that it is completely immaterial what the books of the Treasurer show on any given date, even the protested checks which were returned to that department, in view of the testimony of this witness that they are routed back to the various departments all over the State for collection and her testimony that because there is a possibility that they have been collected since having been sent out and entered in the book, she cannot tell whether any one check on that list is paid at the date she made the list up, and therefore that evidence has completely no virtue to it. And I insist further that proof of protested checks should properly have been done, if insisted upon, by the presenting of the checks, or, in the case of the securities, if they had been compiled and furnished to me in correct and compiled form I would not have objected. So because it is incompetent and irrelevant, and on the witness' own statement inaccurate, I object to it as being legal evidence.

Mr. BROWN: Mr. Speaker, it is apparent from the testimony of this witness that the figure which she is about to give, if she is permitted to give it, is a figure which has been taken from a compilation of her own records which are in effect the records of the Treasurer of this State. Now the objection raised by Mr. Gillin is it appears that these checks are routed back to the different departments and they may be paid. Now I will call the Chairman's attention to this fact, that un-

der the law every department is required, when it receives cash, to send it in to the Treasurer's office. Now if any of these checks which have been routed back to other departments have been paid, it is only fair to assume that those departments have lived up to the provisions of the law and sent their cash into the Treasury Department, and it seems to me that in all fairness the figures which will be given here, if this witness is allowed to testify, will be accurate, because I think we are bound to assume that these other departments have lived up to the law; and I insist that I should not be compelled to produce all these checks which have gone to protest which I have already informed the Chair many of them cannot be found. We do, however, have a mass of them.

So I take this position: That I have offered to this Convention the Treasurer's own records for the year 1937 that were compiled down to last Saturday, and it appeared last Saturday that these protested checks have not been paid. Counsel for Mr. Smith said, "Yes, but maybe they were paid between now and last Saturday, those that haven't been paid up to that time." And I submit that my evidence is all that can be expected, particularly in view of the repeated statements from the Chair that as far as the rules of evidence were concerned a liberal construction would be given.

Now I can do nothing more than report from the Treasurer's own records in this matter, and there is no reason to assume they are not correct.

Mr. GILLIN: To clear this matter up again, might I interrogate the witness briefly?

The CHAIRMAN: The Chair would be very glad to have you do so, if you can clear it up.

Recross Examination

(By Mr. Gillin)

Q. Miss Chase, at the time you compiled this list from your books you were simply setting down on paper the total number of checks which had been up to that point received back by the Treasury Department, protested checks for the year 1937?

A. That is correct.

Q. And at the time you were taking those figures—that was what date?

A. The amount?

Q. What date?

A. Last Saturday.

Q. What date was that if you recall? June 1st?

A. The first of June.

Q. Now on that date when you were making compilation of all of the protested checks, up to that time there had been in the office 37 checks. Those checks or most of them at that time were out in the hands of other departments of State?

A. That is right.

Q. So that at the time you made that compilation you were not attempting to show the balance of unpaid protested checks because you could not at that time. Is that correct?

A. I was just showing the figures as they were on my book.

Q. You couldn't know whether or not those checks that same day were paid?

A. No, I could not.

Q. And you couldn't tell whether any one of them remained unpaid, the date that you compiled that list of figures, could you?

A. No, I couldn't.

Q. So that so far as anything that your records show or your own personal knowledge, all of those checks might have been paid that day?

A. That is true.

Mr. GILLIN: Now I think that completely disqualifies that evidence.

Q. (By the CHAIRMAN): Miss Chase, leaving aside for the moment the question of what checks may have been paid since they were listed as protested, do you know whether or not your list includes only checks which were in fact protested?

A. It does include only checks that were protested.

The CHAIRMAN: Then the witness may answer with the understanding that it has not evidential value to prove unpaid checks now outstanding.

(The last question was read by the reporter.)

Q. (By Mr. Brown) What is that total?

A. \$342.80.

Q. Have you the total amount of protested checks for the year 1938?

A. Yes, I have.

Q. What is that total?

A. \$474.80.

Q. Have you the total amount of protested checks for the year 1939?

A. Yes, I have.

Q. What is that amount?

A. \$452.77.

Q. Have you the total amount of protested checks uncollected for the year 1940 up to last Saturday?

A. We have.

Q. What is that amount?

A. This amount will differ from the figures I gave you due to the fact that some of those checks have been taken care of in the meantime. The figure I have now is \$11,003.79. The figure I gave you was \$11,146.79.

Q. Miss Chase, are there any protested checks returned to your department which are still there and have not been sent out to any other department?

A. Not that I know of.

Q. Aren't there checks which come in to your department which are from outside parties that occasionally go to protest?

A. To our own department?

Q. To the Treasury Department.

A. We have checks that are protested on our own department; yes, sir.

Q. Now, have you at the present time in your capacity as an employee of the Treasurer's office any of those protested checks?

A. I have two checks back in 1938 but those are the only two outstanding on our department.

Q. What is your method of procedure in regard to the collection of those checks?

A. With two of them, and in this case, I wrote this party several letters and she wrote back saying the check would be taken care of by certified check and in a reasonable length of time another letter was forwarded to her and she likewise replied that it would be taken care of, that she was at that time sick but the check would be taken care of as soon as possible. The last check I wrote about was in New York. The check was returned and she had left the hotel.

Q. And did I understand you to say this morning that these amounts of protested checks which you have described are carried on the Treasurer's books as cash?

A. They are.

Q. And does that also apply to protested checks outstanding before 1937?

A. Yes.

Recross Examination

(By Mr. Gillin)

Q. Could you give an approximation of the number of protested checks that have been paid since January 1st of this year or for any given period?

A. Well, the last figure that I had was that one that Miss Maddocks gave that was twelve hundred at that time and of course it has been much more than that but I wouldn't know off hand how much has been paid on protested checks since January 1st.

Q. Well, the point is the manner in which this department has handled protested checks.

A. They are paid every day. Since I got out this list there have been eight different checks taken care of, I believe, amounting to \$143.

Q. Have you the list before you?

A. Yes, I have.

Q. There is a goodly number of these checks for two and three dollars?

A. Yes, a lot of them are for small amounts.

Q. And is the experience that you have with the State Police in collecting these Highway Department checks rather satisfactory collecting experience?

A. That is done wholly by the Secretary of State's department. Most of our protested checks are on that department and they in turn, I understand, turn them over to the State Police and the State Police do what they can in obtaining the money and in some instances if they can't get the money, they try to get the plates back.

Q. You say most of those checks are on that department?

A. They are.

Q. So that, as I understand it, they find their way into the hands of the State Police for collection?

A. Yes, they do.

Q. And the returns of the State Police are quite satisfactory?

A. Yes, they are.

Q. Now, you give your attention to the collection of protested checks?

A. Well, nothing other than the fact that when they are returned to the office I return the money to the bank making out a slip—

Q. No, you misunderstood me or I phrased my question poorly. You are the young lady in that office

who handles the protested check account?

A. Yes.

Q. And you handle or supervise the collection machinery which is applied to the collection of protested checks?

A. Yes.

Q. And with respect to the checks which you handle yourself, that is done by continued correspondence?

A. Yes.

Q. And has your experience been rather good in collecting those checks?

A. Very good.

Q. Has the manner in which you handle these collections of protested checks or the volume of payments on them ever been the subject of comment or criticism by the auditors or controller?

A. Never to my knowledge.

Redirect Examination

(By Mr. Brown)

Q. I believe you said, Miss Chase, this morning that there isn't any precise regularity with which you get back payments from the departments out through the State that are collecting their own checks?

A. There is none.

Q. The time which these payments are made from those collecting departments is variable?

A. Yes, it is.

Q. And do I understand you that since the first of the year the total collections of protested checks, back protested checks, has exceeded \$1200?

A. That is since February that we have collected over \$1200.

Q. You wouldn't know the period from January 1st?

A. No, I wouldn't know what we collected through January.

Q. And that includes a large part of the small two and three dollar checks?

A. Yes, it does.

Q. Does that list also contain some checks of large amounts?

A. Yes, it does.

Mr. BROWN: Mr. Speaker, I would like to read into the record Section 14 of Chapter 216, Article 2, of the Public Laws of 1931, which relates to the manner in which protested checks shall be collected, and offer it in evidence.

The CHAIRMAN: Admitted.

Mr. BROWN: "Any public officer or any person, firm, association or corporation paying money into the

state treasury may make such payment by delivering to the Treasurer of the State a check, draft, certificate of deposit, or money order drawn and endorsed and payable to the Treasurer of State or his order, or may make such payment by delivering to the Treasury of the proper amount of legal currency. The Treasurer shall keep a record of all drafts, checks, certificates of deposit, money orders and all cash received by him and upon receipt thereof shall forthwith cause the same to be placed to the credit of the State of Maine in some State depository. If any check, draft, or certificate of deposit shall not be paid on presentment the Treasurer shall immediately notify the Commissioner of Finance and he shall proceed to collect the amount thereof with costs from the person drawing the same. The Treasurer shall daily transmit to the State Controller a statement of all receipts into the Treasury, giving such details thereof as the Controller may require. The State government shall not be liable where any loss resulting from lack of diligence on the part of any depository in forwarding or failing to collect any check, draft or certificate of deposit or for the loss of any such draft, check or certificate of deposit in the mails or otherwise."

VINCENT LEDEW, Recalled

Redirect Examination

(By Mr. Brown)

Q. Mr. Ledew, in Proponents' Exhibit No. 41 which is the copy of the receipt retained by your department, after sale is made you have stated that ten of those receipts are signed by you?

A. Yes, sir.

Q. That leaves ten others?

A. Yes, sir.

Q. Will you look at that exhibit and tell me who signed those other ten, if you know?

A. Edwin H. Root.

Q. And who is Edwin H. Root.

A. He is the Chief Clerk of the Highway Garage.

Q. Does he work there?

A. Yes, sir.

Q. Does he also make sales of merchandise?

A. Yes, sir.

Q. And when he makes a sale of merchandise does he fill out the slip?

A. Fills out the same form.

Q. And those receipts therein

signed by him are his own signature, are they?

A. Yes, sir.

Mr. BROWN: I offer Proponents' Exhibit No. 41.

Mr. GILLIN: May I inquire the purpose of this offer?

Mr. BROWN: One purpose of this offer is to introduce background to show how they did business there. That is one thing. And what became of the money which was taken in by the Garage and the method of handling the transactions. It also appears that there was prescribed a method of handling these funds and if I understood the witness correctly—I may be checked on this and he may not have testified to it but I think he did—that he got his instructions from Mr. Runnells in regard to the handling of the cash and so forth in connection with this department and he was given these receipts and this was the method which they used over there. Now, the Code provides that the Controller may establish accounting methods, forms of receipts, invoices and other matters, and in this book which has been set up it appears that there were receipts which should have gone to the Treasurer's office or I have to inquire into that, and I offer this for the purpose of, first, showing the way they do business over there; second, for the purpose of showing the kind of papers or documents or whatever you choose to call them that are used in the accounting methods of this garage.

Mr. GILLIN: I object to that as being surplusage. The manner of doing business at the Garage has been testified to without objection by this witness, completely and there has been introduced as evidence a book of these receipts which introduction makes the offer of this unnecessary for either of those two purposes. Another obvious objection is that this exhibit contains papers which this witness testified somebody else made out. That is hearsay. And the final objection is that most of the documents in this book are illegible and can't be read. I shall object to it.

The CHAIRMAN: The Chair will admit it for what it is worth limited to the items identified by this witness.

Mr. GILLIN: And for the purpose specified only? Is that correct?

The CHAIRMAN: The Chair's statement of limitations is as far as the Chair cares to go; for what

it is worth as evidence limited to the items identified by this witness.

Mr. BROWN: Just one question, Mr. Ledew. I have a misunderstanding as to the time that your employment began. Will you please state when that began?

A. March, 1935.

Q. 1935?

A. Yes, sir.

Cross Examination

(By Mr. Gillin)

(Handing exhibit to witness)

Q. Can you read that page in the exhibit?

A. Yes.

Q. What does it say?

A. Received from V. Peterson the 9th day of December, 1939, sixteen cents for one headlight bulb.

Mr. GILLIN: Might this exhibit be passed around?

The CHAIRMAN: If there is no objection.

Mr. GILLIN: I would invite the attention of the Convention to the legibility of the other pages.

Q. (By Mr. Gillin) Mr. Runnells formerly worked in the garage didn't he?

A. I beg your pardon.

Q. Mr. Runnells formerly worked in the Garage didn't he?

A. Not that I know of.

Q. When you came to work in the Garage, the manner of doing business was superintended by him, or in accordance with his directions?

A. Well, I imagine that it was.

Q. When you came to work who told you to bring the checks and money down to him personally?

A. As I remember it, the instructions came from Mr. Runnells.

Q. Where would that be, at the Garage or in the Controller's office?

A. I think probably in the Controller's office.

Q. I understand that when you brought down this envelope which was sealed, it contained, in respect to each item of sales, three carbons of your receipt slips and either the cash or the checks representing the proceeds of each item of sales?

A. Yes, sir.

Q. And after you delivered as many of those envelopes as you did, of course you don't know what happened to the contents after that?

A. No, sir.

Q. Did you happen during the recess to examine those boxes of receipts which were here this morning?

A. No, sir.

Q. You did not?

A. No, sir.

Mr. BROWN: That is all, Mr. Ledew.

EDWIN H. ROOT, Sworn

Direct Examination

(By Mr. Brown)

Q. What is your name?

A. Edwin H. Root

Q. You live in Augusta?

A. I do.

Q. You work for the State Highway Garage?

A. Yes, sir.

Q. And what is your particular type of employment?

A. Chief Clerk.

Q. Do you occasionally sell merchandise over there?

A. I did until it was discontinued.

Q. When did you first go to work for the State Highway Garage?

A. The first part of March, 1939.

Q. Did you hear Mr. Ledew's testimony this morning in regard to the way in which sales were made and as to the making out of these receipts and how the cash was handled?

A. I heard a portion of the inquiry. The other part was rather indistinct on account of the speaker system.

Mr. BROWN: I intended, Mr. Chairman, to save time by merely asking this witness if the facts as stated by Mr. Ledew were accurate. I didn't like to go over the same story with him again.

Q. (By Mr. Brown) Mr. Ledew's testimony which you heard, as you understood it this morning, in regard to those matters, was it accurate?

A. Yes, sir.

Q. An accurate description of the way the affairs were handled over there in regard to the sale of merchandise and making out the receipts?

A. What he said that I heard was correct.

Q. Have you made sales of merchandise yourself?

A. I have made sales.

Q. When you made sales yourself, did you handle the transaction in the manner in which he described that he handled it when he made sales?

A. I did.

Q. Who else has been working over there besides yourself and Mr. Ledew who had anything to do with the sale of merchandise?

A. During the course of the time I have been there?

Q. Yes.

A. Mr. Davis, Mr. Ward, Mr. Ledew and myself.

Q. Who made the bulk of the sales, if you know?

A. I don't know. I would have to make an estimate.

Q. If sales were made by any of these men, did they make them in the same manner?

A. They did.

Cross Examination

(By Mr. Gillin)

Q. Did you receive instructions from Mr. Runnells to bring personally to him the sealed envelopes containing the cash and checks and the receipts representing the sales you made?

A. Mr. Runnells didn't give me instructions to handle the cash.

Q. Did you ever bring cash or checks reflecting sales made by you or anybody else to Mr. Runnells?

A. I have in the absence of Mr. Ledew.

Q. Who would give you those instructions?

A. My instructions were from the knowledge I have had supervising the work in the office of the Garage.

Q. Did you or did you not receive instructions to hand these sealed envelopes containing receipts from sales personally to Mr. Runnells?

A. I had information from Mr. Ledew.

Q. And what was that information?

A. That they should be sealed in an envelope addressed to him.

Q. To Mr. Runnells?

A. Yes, sir.

Q. And all the envelopes you saw that went that way, were they addressed to him?

A. They were.

Q. In some of those envelopes you brought down, were there some where the slips and cash or checks reflected sales made by you?

A. Some reflected my sales, yes, sir.

Q. How frequently do you think you carried those down to him, once or twice a week or once or twice a fortnight?

A. I think I have taken them to Mr. Runnells four times.

Q. Do you recall the last time, approximately?

A. Well,—

Q. It isn't important if you don't know.

A. I have taken one over this year.

Redirect Examination

(By Mr. Brown)

Q. Mr. Root, as a matter of common practice, did Mr. Ledew usually take the envelopes to Mr. Runnells?

A. He did. To my knowledge he took them there.

Q. As I understand your testimony, the only times you took them was occasionally when he wasn't there?

A. When he was either sick or on vacation.

Q. That was an unusual incident for you to deliver the money to Mr. Runnells?

A. It was.

Mr. BROWN: That is all.

ELEANOR KELLEY, Sworn

Direct Examination

(By Mr. Brown)

Q. What is your name?

A. Eleanor Kelley.

Q. Do you live in Augusta?

A. No; Gardiner.

Q. Are you employed by the State?

A. I am.

Q. Were you employed in Mr. Runnells' office?

A. I was.

Q. When were you first employed?

A. In Mr. Runnells' office?

Q. Yes.

A. In April, 1932.

Q. Was that in connection with the Bureau of Accounts and Control?

A. It was.

Q. Just what were your particular duties? Were you a private secretary to Mr. Runnells?

A. Well, yes, and there were general office duties too.

Q. Did you attend to his personal business, correspondence, take his dictation and so forth?

A. I did.

Q. And did he take up matters with you pertaining to the office which he did not discuss with the other help?

A. I would say so.

Q. In other words, didn't you understand that you functioned as a private secretary?

A. Yes.

Q. Now, Miss Kelley, are you aware of the fact that receipts, these receipts from the Highway Garage,

were delivered to Mr. Runnells personally?

A. Yes, sir.

Q. Are you now aware of it?

A. Yes, sir.

Q. And you were aware of it some time ago?

A. I was.

Q. When were you first aware that the cash receipts were coming from the Highway Garage to Mr. Runnells, personally?

A. Since I have been employed in the Controller's office.

Q. Since you have been employed in the Controller's office you have been aware of that procedure?

A. Yes.

Q. Were those envelopes sealed?

A. Yes, sir.

Q. And were they always delivered to Mr. Runnells?

A. They were delivered to Mr. Runnells if he was there and if he was not busy.

Q. Who usually brought them down from the Garage?

A. Mr. Ledew, Mr. Guest and Mr. Root.

Q. More often by Mr. Ledew?

A. Well, yes.

Q. As a matter of fact, when they were brought by anyone else was an occasion?

A. Prior to Mr. Ledew's employment Mr. Guest used to bring them to the office.

Q. Do I understand you to say if Mr. Runnells was present in his office the envelope with the cash was given to him?

A. Yes, unless he happened to be busy.

Q. If it was not delivered to him personally, you took custody of it, is that correct?

A. I did. And in my absence the girls who assisted me took it.

Q. Now on occasions when this envelope was delivered to you, did you ever see its contents?

A. No, sir.

Q. Did you deliver to Mr. Runnells in exactly the same condition, unopened, as you received it?

A. I did.

Q. What did he do with it, as far as you know?

A. As far as I know the contents of the envelope were matched with copies of the bills which were in his office.

Q. You are probably speculating now. You state you never saw the contents of the envelope before it was opened?

A. No, sir.

Q. Do you remember of seeing Mr. Runnells open it?

A. I do not remember.

Q. So far as you recall, you never did?

A. No.

Q. Would he take the sealed envelope and go into his private office with it?

A. Into his own office, yes.

Q. But you never did see it opened?

A. No.

Q. Do you know how the contents of that envelope was handled from then on, after receipt by Mr. Runnells, of your own knowledge do you know?

A. No.

Q. The only thing you had to do with this procedure was to accept it from Mr. Ledew if he happened to bring it in, if Mr. Runnells was not present, and give it to him when he appeared. Is that correct?

A. That is correct.

Cross Examination

(By Mr. Gillin)

Q. Was it Mr. Runnells who set up and started this State Garage, do you know?

A. I didn't hear your question.

Q. Was it Mr. Runnells who set up and started this State Garage in operation?

A. I do not know.

Q. At the time you came to work for him it was in operation?

A. It was.

Q. Who was in charge of it, the garage?

A. Do you mean the superintendent?

Q. Yes.

A. Mr. Marston, I believe was superintendent at that time.

Q. Did Mr. Runnells give considerable time and attention to the garage?

A. I thought he did,—it would only be my thought.

Q. What did you say?

A. It would only be my thought—this answer.

Q. You thought he gave considerable time and attention to it?

A. Yes.

Q. Now did you have anything to do with the make-up of any documents that were sent from the Controller's department to the Treasury Department in connection with the proceeds of sales at the garage?

A. I did not.

Q. It was handled by some other

member or members of the Controller's force?

A. That is true.

Q. Did you ever hear Mr. Runnells mention from 1937 on, that he was interested in or taking charge of a payroll check-up or investigation to see if payrolls were being padded?

A. Since 1937?

Q. Yes.

A. No, sir.

Q. Did you before that time?

A. Yes, sir.

Q. When was that?

A. I would say about 1934 or 1935.

Q. And from what he said he apparently suspected some payroll padding in one of the departments?

A. I understood it was on the outside.

Q. Just what do you mean by outside?

A. I mean it was not within the State department: it was the foreman making up the payrolls.

Q. Did it occur more than once?

A. Yes, sir.

Q. Did you ever hear Mr. Runnells say or write any letters, dictate any letters to you which would indicate he had any connection with the Auburn robbery—

Mr. BROWN: I object. I do not see how it is at all material. The only purpose of this witness and the only issue here is the tracing of this cash. Any conversation she might have heard on the part of Mr. Runnells or what statements he might have made to her in regard to why he was going to use particular funds, I cannot see has any bearing.

The CHAIRMAN: Do you press the question, Mr. Gillin?

Mr. GILLIN: If objected to, I will not press it.

Q. Did you ever hear him say, or dictate to you, or have any connection with investigating matters or occurrences having to do with the Liquor Commission?

Mr. BROWN: It seems to me the question is the same.

The CHAIRMAN: The Chair would let the witness answer, yes or no.

WITNESS: Will you repeat the question?

Mr. GILLIN: In substance, I asked, did you ever hear Mr. Runnells say or dictate anything to you to show he was concerning himself with an investigation in the affairs of the Liquor Commission or the sale of liquor?

The CHAIRMAN: The answer should be limited to yes or no.

WITNESS: No.

Q. Now on such occasions as you saw these sealed envelopes from the Garage delivered to Mr. Runnells personally and on such occasions as you received them and turned them over to him personally, do I understand he invariably would take them into his private office where nobody else was?

A. Well, he would have to go into his office because the folder which pertained to cash receipts was kept in his office most of the time.

Q. Let me get the point—he kept in his office the folder which had the cash receipts from the Garage, he kept it in his private office?

A. It contained triplicate invoices.

Q. What?

A. It contained triplicate invoices.

Q. What I was trying to get at was this: After Mr. Runnells would get these sealed envelopes and go into his office, would you have occasion to see any of the envelopes after that?

A. No.

Q. That is all you personally know about what happened to them, was that he took them into his office?

A. That is right.

Q. Were you ever present when Mr. Runnells gave instructions to anybody at the Garage, any employees at the Garage or anybody connected with the Garage, that all cash received from sales at the Garage should be turned in to him personally in sealed envelopes?

A. No.

Redirect Examination

(By Mr. Brown)

Q. One question, Miss Kelley, were you first employed in the capacity you stated in 1932, that is correct?

A. Employed in the Controller's office, you mean?

Q. Yes.

A. Yes.

Q. Have you continued in that same employment until now?

A. I have.

ALICE CURRIER, Sworn

Direct Examination

(By Mr. Brown)

Q. What is your name?

A. Alice Currier.

Q. You live in Augusta?

A. In Augusta, yes.

Q. And are you in the employ of the State?

A. Yes, sir.

Q. In what department?

A. Bureau of Accounts and Control.

Q. Are you familiar with these envelopes that used to come from the State Garage, Highway Garage, to Mr. Runnells?

A. No, sir.

Q. You know he received such envelopes, don't you?

A. Yes, sir.

Q. You know, do you not, that the cash and checks, that the revenue received by the Highway Garage came over to Mr. Runnells in an envelope, do you not? You are aware of that fact?

A. I am now.

Q. You mean to state you did not know it before?

A. When I received the revenue it was not always in an envelope.

Q. I understand that and we are going to get to it in a minute. But you knew the receipts from the Highway Garage were being delivered to Mr. Runnells, you knew he got them?

A. Yes.

Q. Although you did not know what the contents of the envelope was at the time he received it?

A. That is correct.

Q. Now later would Mr. Runnells give to you what purported to be the cash receipts from the Highway Garage to be taken into the Treasurer's office?

Mr. GILLIN: I object to the word "purported."

Q. Was it your understanding that the cash receipts from the Garage were turned over to you by Mr. Runnells for deposit in the Treasurer's office?

Mr. GILLIN: I object to having her opinion.

The CHAIRMAN: Not her understanding, but what she knows as a matter of fact.

Q. Did Mr. Runnells turn over to you the receipts from the Highway Garage to turn into the Treasurer's office?

A. That is what I have always understood.

Q. When you turned cash for a department in to the Treasurer, did you make out any vouchers or income sheets with it?

A. Always made out an income statement.

Q. Now, you received from Mr.

Runnells in this connection checks or cash?

A. Checks—seldom cash.

Q. Seldom cash received?

A. That is right.

Q. Would checks be accompanied by a receipt from the Highway Garage?

A. Yes, sir.

Q. And would each check be accompanied with a receipt similar to this set out in Plaintiff's Exhibit 40?

A. Yes, sir, three.

Q. And how many receipts would be attached to each check?

A. Three.

Q. That is three copies?

A. Three copies, yes.

Q. Each receipt was the same?

A. Yes.

Q. That is, they were carbons?

A. Yes.

Q. You say that you received very little cash?

A. Very little cash.

Q. But when you did receive cash would it be accompanied by similar receipts, the three carbons?

A. Yes, sir.

Q. And in about what amounts would the cash run that you received from Mr. Runnells for any one deposit in the Treasury Department?

A. Oh, sometimes it would be less than a dollar. It would usually be to finish out some check; the receipt would be a little more than the check.

Q. You mean you would get a dollar or two?

A. No, mostly change.

Q. More often than otherwise you received less than a dollar. Is that correct?

A. Yes.

Q. But you would have these three carbon copies of receipts covering it?

A. Yes.

Q. Now Miss Currier, you made up the income sheet when you deposited these checks with the Treasurer's office?

A. Yes, sir.

Q. And is that sheet similar to this I hold in my hand?

A. Yes, it is.

Q. And what would you list on those income sheets?

A. I would list the distribution first under the appropriation that was to be credited, then below I would give a description of the checks.

Q. You would list on there that

the funds being turned in were Highway Garage account?

A. It would not specify Highway Garage, it would say "State Highway Commission."

Q. I understood you to say that you took in with the checks to the Treasurer's office the three receipts which you had received?

A. Usually, yes.

Q. And did you leave those in the Treasurer's office?

A. Yes, sir.

Q. Do you know which three that you took into the Treasurer's office? That is, I mean here is one which states "Duplicate to State Treasury with money"—would you take that one in?

A. Yes, sir.

Q. One states "Triplicate to State Treasurer for file." Would you take that in?

A. Yes.

Q. One says "Quadruplicate, to be kept in file of department or institution making collection." Would you take that in there?

A. Yes.

Q. And did you leave those two there at the Treasury Department when you made your deposit?

A. Yes, sir.

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

The Chair suggests that wherever the wandering exhibit is, it should be returned to the Attorneys' desk.

After Recess

The Convention was called to order by the Chairman.

Cross Examination

(By Mr. Gillin)

Q. In answer to a question that was asked you before the recess, as I understood you, you said that it was your understanding that you got all of the proceeds of the Garage sales?

A. Yes, sir.

Q. But you can't be sure that that was right, can you? You can't tell but that some of it may have been taken out of the envelopes that have been described before it was turned over to you? Do you understand me?

A. No.

Q. Well, I mean, there was a period between the time that the sealed envelopes which we have heard described were delivered to Mr. Runnells and when you got them, while he was in his private office, when the contents might

have been changed. That is correct, isn't it?

A. I suppose so.

Q. So that you can't be sure that what you eventually were handling was the same amount as what was handed to Mr. Runnells in the sealed envelope in his private office, can you?

A. No because I never saw that.

Q. Now, with respect to the three copies that were handed to you with whatever you did receive from Mr. Runnells' office, you received the duplicate, triplicate and quadruplicate? Is that correct?

A. Yes, sir.

Q. And who gave you the proceeds of those envelopes?

A. Mr. Runnells.

Q. Did your office adjoin his private office?

A. No, sir.

Q. And every time he would come out to where you were working and give you the money or the cash that you then made it up to send to the Treasury Department?

A. Yes, sir.

Q. And as I understand it you stated that with every check or every collection of cash you pinned to it the duplicate, triplicate, and quadruplicate copies of those receipts?

A. I don't understand the question.

Q. Well, when you got the cash for one sale or the check for one sale you distributed that on an income?

A. Yes, sir.

Q. And after you had completed that income by distributing on it all of the items that you were then handling, you took that income, together with the check or cash, into the Treasurer's office?

A. Yes, usually with the receipts.

Q. Now, do I understand that on every such occasion the checks or the cash representing the various sales always had pinned to them, sale by sale, three copies of those receipts?

A. When I received them they did.

Q. But did you send three copies of each receipt in with each item that you received when you took it to the Treasurer's office?

A. I couldn't say that I always did; no.

Q. Do you think you did most of the time?

A. Yes, sir

Q. And you would at some time later receive back the receipts that you brought in?

A. I didn't receive them. I understand they came back to the Controller's office but I didn't receive them personally.

Q. So that whatever receipts were turned in to the Treasurer's office, you never had back again?

A. No, sir.

Q. Now, did you have a discussion yesterday with two of the young ladies in the Treasurer's office with respect to the regularity with which you brought in the receipts to that office with the income blanks and the cash? Did you have such a discussion with any of the young ladies in the Treasury Department?

A. Yes, sir.

Q. And was there an apparent disagreement between you and them as to the regularity with which you brought in these receipts?

A. I don't know that there was.

Q. Well, didn't they as a matter of fact say that you never brought them?

A. They said that, yes, but I didn't think they understood. They were referring to sales slips and thought they should be marked, "Garage" and they never were marked "Garage".

Q. These were the only slips that you ever brought to the Treasury Department.

A. No, I had a few sometimes from the Bridge Department.

Q. But these were the only type of slips that you brought in?

A. Yes.

Q. And do you know it to be a fact that every department of the State, the institutions and all other departments that receive funds for the State, use these same identical receipt blanks?

A. Yes, sir.

Q. And I call your attention to the fact that these samples which came out of one of the books that I got from Mr. Brown this morning bear a serial number.

A. Yes, sir.

Q. And is it a fact that the books of receipts which were used by the Highway Department and the other departments all had serial numbers on them?

A. I never saw those books at all. I didn't even know those were taken out of the books.

Q. In your work in the department of the Controller, did you

handle other accounts than the Garage account?

A. Yes, sir.

Q. Did you handle all of the accounts from the institutions of the State?

A. Where they bought things from the Garage I did, where it was a credit to any highway account.

Q. Did you have occasion to make up and bring into the Treasury Department income sheets on account of any other department other than the Highway Department?

A. No.

Q. Isn't it a fact, after you had this discussion with the girls from the Treasury Department, when they said you never had brought any of these receipts in, you said to them that you might have brought in so few that they might not have noticed it?

A. I said that, yes. Those were all the receipts except a few from the Bridge Department.

Q. Is it a fact then, in connection with the bringing in of funds from the Controller's office to the Treasury Department, which came from the Garage, that you only brought in a few receipts, so few that they probably would not notice it? Is that correct?

A. If I brought in any, I brought in a lot on that deposit.

Q. You just stated that if you brought in any you brought in a lot?

A. Well, on that deposit oftentimes the Highway Garage deposit was combined with another deposit on the same appropriation where the checks would come to me directly from the Highway and not the Garage. If I had checks to deposit to that appropriation, I combined them with the Garage deposit.

Q. In making up the income sheet which you brought in to the Treasury Department, when you had occasion to bring into that department money received from the Garage, that income sheet would not indicate, in the manner you distributed the data on it, it did not indicate what money was received or was coming from the State Garage?

A. No, sir.

Q. So that anybody who looked at one of those income sheets which accompanied receipts from the State Garage, anybody in the State Treasurer's office looking at such an in-

come sheet, would not see the words "State Garage" on the sheet?

A. No, sir.

Q. That is, all of the receipts from the State Garage were distributed on the income sheets simply as Highway Department?

A. Yes, sir.

Q. And in making up those income sheets in which you distributed the funds you did receive from the Garage, who gave you the figure which you would carry under the heading "Highway Department" which represented funds from the Garage?

A. Who gave me the figure?

Q. Yes. The amount of money.

A. I figured that up myself.

Q. From what you received from Mr. Runnells?

A. Yes.

Q. I understood you to say in answer to a question from Mr. Brown, that you usually took three receipts into the Treasurer's office?

A. Yes, sir.

Q. And sometimes you did not?

A. Sometimes the receipts were not taken in there.

Q. Why would that be?

A. Well, I would be in a hurry to make up the deposit and I would take the deposit into the Treasurer's office and when I got back I would see the slips in my desk. I wouldn't make a point of taking them in then because I knew they came back to the Controller's office.

Q. You say all of the receipts came back to the Controller's office?

A. That is what I understand.

Q. Do you know that to be a fact?

A. I have seen them in the files.

Q. And does that include the copy which is the duplicate copy which says duplicate to State Treasurer, with money, then to Controller; also the pink triplicate?

A. Yes, sir.

Q. As a matter of fact, the manner in which these receipts were handled, and I am speaking now of receipts for garage money, the Treasury Department never kept any copies of these receipts for its files?

A. No, sir.

Q. Do you know what became in the Controller's office of the copy which was marked triplicate to State Treasurer for file?

A. No, I don't know. I don't believe they were separated out at all.

Q. With respect to your usually sending the slips to the Treasury Department to accompany the deposit, would you say that you did that on 50% of the deposits you made of funds received by the State Garage?

A. I couldn't say.

Q. Might it be less?

A. It might be.

Q. Might it be even as small as 25%?

A. It might be. I couldn't say.

Q. So that you really have no definite notion, have you, as to how regularly the money and checks sent into the Treasury Department from your department, received from the State Garage, had no receipt slips at all attached to them? You haven't any real definite knowledge have you?

A. No, sir.

Q. It was your job to see that in the case of each deposit three slips accompanied the deposit? Those were your instructions?

A. I never had any instructions about those receipts.

Q. Then why did you ever send them in?

A. I didn't know what else to do with them.

Q. You used your own judgment about sending them in?

A. It said on them to do it.

Q. In the case where you did not send any receipt blanks in, it was because in your judgment you did not consider it necessary or convenient?

A. Will you repeat the question, please?

Q. In the cases where you did not send any receipt blanks to the Treasury Department it was because in your judgment you considered it unnecessary or inconvenient?

A. I suppose so.

Q. Isn't that the fact?

A. I should say yes.

Q. So that in view of the fact that much of this money which was routed through you, and which was the proceeds of sales from the State Garage, which was routed through you, and for which you made up the income blank, which income blank did not indicate to the Treasury Department by the use of the words "State Garage" that the money was from the State Garage, by reason of that fact, such moneys of the State Garage as you did transmit to the Treasury Department not accompanied by receipts, which you indicated might have

been 75% of them, the Treasury Department would have no way of knowing it came from the State Garage would it?

Mr. BROWN: Just a moment. That calls for a conclusion. The answer is obvious of course.

Mr. GILLIN: If it is objected to, I will withdraw it.

Mr. BROWN: I will admit there is no question what the answer should be.

Redirect Examination

(By Mr. Brown)

Q. Miss Currier, I understood you to state when I was examining and when Mr. Gillin first started his cross examination, I understood you to state you usually turned in with your deposit the receipts from the Garage to the Treasury Department, did you not so state?

A. That is what I stated. Yes.

Q. In answer to the question of Mr. Gillin on cross examination you later came to the conclusion that you might not have turned in 25 per cent of those receipts to the Treasury Department when you made the deposit. Which is the fact?

A. When I first received receipts they always went to the Treasurer. In 1939 I think probably half during the year didn't go in. When I first made up the deposits, I cannot tell just when, when I first received them they always went into the State Treasurer's office.

Q. When did you first start to handle deposits from the Garage and turn them into the Treasurer's office?

A. Well, I did a few before 1932 but there were no receipts before that that I can remember.

Q. How long have these receipts been coming to you from the Garage?

A. I think they began to come about the last part of 1932.

Q. Now from 1932 to sometime in 1939 do you state that you always turned in the deposits from the Garage to the Treasury Department, the receipts accompanying the revenue from the Garage? Do you understand the question?

A. Repeat it, please.

Q. Do I understand from 1932 until sometime in 1939 you always turned in to the Treasury Department with the funds from the Garage, the receipts from the Garage?

A. I could not say definitely that I always did; no.

Q. Would you state it was only occasionally that you didn't?

A. Yes, sir.

Q. Would you say that 50% of the time you didn't turn them in during that period?

A. No, I would not.

Q. Can you state that during that period of time there were only isolated instances when you did fail to turn in receipts to the Treasury Department?

A. Yes, sir.

Q. Accompanying the Garage funds which were deposited?

A. Yes, sir.

Cross Examination

(By Mr. Gillin)

Q. Then in answer to my question to the effect it might have been as low as 25% of the time that you sent the Garage money in, accompanied with slips, what period of time were you having in mind?

A. I was thinking of 1939.

Q. The year 1939 and 1940?

A. What was that?

Q. The year 1939 and 1940?

A. Yes.

Q. And what made the change in 1939 if before that time you usually did send in the receipts?

A. Well, I didn't receive any receipts in 1940.

Q. We are talking about 1939, as I understand, you state you always sent in receipts?

A. I said occasionally.

Q. You say in most instances up to 1939 you sent cash in, accompanied by these receipts. Is that right or isn't it?

A. Yes.

Q. What happened in 1939 that changed that regularity of sending in receipts?

A. I understood the receipts came back to the Controller's office anyway and were just laid aside in the Treasurer's office.

Q. You didn't discover that until 1939 that they all came back to the Controller's office?

A. I would not say that.

Q. You gave it as a reason for stopping to send them in regularly. If it was the reason you stopped sending them in with regularity, you didn't discover there was such a reason from 1932 to 1939?

A. Each time I found I was getting more neglectful of sending them in.

Q. You say that to some extent your failure to send them in was

due to your neglect? You used the word, neglect?

A. I usually would be in a hurry to make up the deposit. Sometimes the checks would be old. Mr. Runnells would ask me to get them in as quickly as possible. I would perhaps be trying to get them in before five o'clock and I would find after five o'clock that I would have the receipts on my desk.

Q. You used the word, "neglect" yourself.

A. I would call it neglect if I left them on my desk.

Q. One reason you stopped sending receipts which was the only thing that would apprise the Treasury Department that it was garage money—one reason you stopped sending them was neglect?

A. I never stopped entirely.

Q. But in 1939 you might be sending in 25%, and I am trying to get at the reason for not sending in 75%. A moment ago you said you discovered there was no reason for doing it, because they came back. In another moment you said you ceased doing it because it was neglect. Is that correct?

A. That is what I said.

Q. Do you mean it?

A. I won't say I didn't discover it until 1939.

Q. When did you discover it?

A. I could not say.

Q. Would you say 1934 or 1935?

A. I could not say.

Q. It didn't take from 1932 to 1939 to discover that these receipts came back when you sent them in?

A. No.

Q. It probably took only a year or so, didn't it?

A. I could not say.

MRS. GRACE E. WHEELER, Sworn Direct Examination (By Mr. Brown)

Q. What is your name?

A. Grace E. Wheeler.

Q. You live in Augusta?

A. In Hallowell.

Q. You are employed by the State?

A. Yes, sir.

Q. In the Treasury Department?

A. Yes, sir.

Q. How long have you been so employed?

A. I entered the employ of the State Treasurer in January, 1918.

Q. Have you continued in the employ of the Treasury Department ever since?

A. Yes, sir.

Q. What are your particular duties in connection with the Treasury Department?

A. Since June 1937, I have been chief clerk and cashier.

Q. Among your duties is one of them to receive the deposits brought in from different departments?

A. What is that?

Q. Among your duties is one of them to receive the deposits brought in by different departments?

A. Yes, sir.

Q. And would you receive from Miss Currier the deposits which she would make which we have just been discussing?

A. Received the highway income.

Q. You would personally receive them?

A. Yes.

Q. She would turn those over to you? Is that correct?

A. I would handle them. They would be turned in through the window and I would handle them finally.

Q. They would come to your attention?

A. Yes, sir.

Q. Now, when these were turned in would they be accompanied by an income sheet, so-called?

A. Yes, sir.

Q. And would they be accompanied by Garage receipts, that we have been discussing?

A. I was not aware that any of those sales slips or receipts accompanied the income.

Q. You have been receiving this Garage income for a year, so to speak?

A. Since 1937, June, 1937.

Q. Do you now state that when those funds were turned in for deposit with an income sheet they were never accompanied by any of the sales receipts as set out in Proponents' Exhibit No. 40, which I hold in my hand?

A. I was not aware that I ever received those. I received them from institutions and other departments but I didn't know that they did come with any of the highway, which I thought was because we sent them back.

Q. Every other department which deposited its revenues with your office sent along with its income sheet these sales receipts? Is that correct?

A. Yes, if they had any sales receipts they sent them with their income.

Q. Every other department except the Highway?

A. A good many of the departments. I don't know whether all departments used them or not.

Q. Now Miss Wheeler, you were the superior officer, so to speak, in the Treasury Department in charge of receiving these deposits from the different departments, were you not?

A. Yes.

Q. And you are familiar with all departments of State which make their deposits with the Treasury, are you not?

A. Yes, sir.

Q. You are aware of their existence? You are aware of the existence of these departments which deposited?

A. Certainly.

Q. And you are aware, are you not, what departments with their remittances had these sales slips accompanying these remittances, are you not?

A. I know some departments are very outstanding, that send in large bunches of them.

Q. Do you state now that the funds we have been discussing which Miss Currier turned in to you from the Garage were never accompanied by any of these sales slips, so-called?

A. Well, I was not aware of it. I have no knowledge that they were that I remember.

Q. Well, do you want to leave it this way, that you do not know?

A. No, I don't. I just do not recall that any were, but I will say if any were they were handled as all of the others were. We really made no use of them whatever and they meant nothing to us.

Q. Well then, it is apparently a fact, is it not, Miss Wheeler, that you do not know whether those particular deposits were accompanied by sales receipts?

A. I have said right along that there were none, but since hearing that she says she did send some, I would hate awfully to say she didn't, but if she hadn't said that I would have immediately said no right along.

Q. Well, your position is this, is it, that not being absolutely positive you hesitate to contradict Miss Currier?

A. I should hesitate to contradict that she never did.

Q. Well, Miss Wheeler, let me ask you this: If they did come in, what was the course of procedure in handling them, that is the receipts, what would you do?

A. I would do the same as all others. Perhaps they would come in bunches with an elastic around them accompanied with the checks and other receipts with the income, and they are immediately laid one side and put into a box for the Controller to pick up. One of the girls in the Controller's office used to come in several times a month and take them into the office, the Controller's office.

Q. Did you ever file the pink slip which states "Duplicate, to State Treasurer for file"?

A. Never filed any of those.

Q. Now on these receipts there are numbers, are there not, on each receipt it has a number?

A. I presume so. They were nothing to us, we had no instructions what to do with them and never used them.

Q. I will hand you Proponents' Exhibit 40 and ask you to examine it and then I will ask you this question: The receipts in these books are serially numbered, are they not?

A. Yes, sir.

Q. Is it not a fact, Miss Wheeler, that in your office there is a large transfer file full of these sales slips which we are discussing?

A. There is a box full of them to be called for by the Controller.

Q. So that at least some of them have been filed in your office, have they not?

A. They have what?

Q. So that at least some of these sales slips have been filed in your office?

A. Not filed. They are just put in there to be delivered to the Controller's office, called for by one of the girls.

Q. You put them in a box, and sometime or other—

A. Several times a month they come in and get them.

Q. The Controller's office comes in and gets them?

A. Yes.

Q. And you allow to leave your office the pink sales slip which is marked "Triplicate to State Treasurer for file"?

A. The pink and blue always come to us.

Q. And you allow the pink to leave your office and go back to the Controller's?

A. Both of them. They are just taken as they come to us and they are just turned back.

Q. Well then, the fact is that you retain none of those sales slips?

A. No.

Q. In these matters in which sales slips do come to your office accompanying the income sheets from various departments, which you say does occur in some cases, is any attempt ever made by anyone in your department to check the serial numbers on those receipts?

A. Not to my knowledge. May I add: I have been cashier since 1937, and prior to that the previous cashier—

Mr. BROWN: I object to this answer if she is going back beyond 1937. I will leave your answer as it was if Mr. Gillin wishes to inquire.

Mr. GILLIN: I would be interested in knowing what the answer was.

The CHAIRMAN: You may state if you know of your own knowledge, Miss Wheeler.

Mr. BROWN: I am going to object to that, Mr. Chairman, on the ground we are concerned only here with the manner in which the office was operated during the time Mr. Smith was Treasurer. The mere fact that the office might have been carried on with the uttermost degree of efficiency or the most laxness before he came in there is immaterial in this case, and I object to any discussion of it by any witness.

Mr. GILLIN: In reply to that, I may say I think I was patient in not objecting to practically every one of my Brother's leading questions addressed to his own witness. Now because he used such a leading question he developed an answer which he himself interrupted of his own witness. Now I would simply like to know what that answer is, and I haven't the slightest information what it would be, but it has led someone to think she had information and I think in fairness she might be permitted to give it.

The CHAIRMAN: It is rather difficult for the Chair to rule, not knowing what it has to rule upon. The witness may proceed until some objection is made.

Cross Examination

(By Mr. Gillin)

Q. And again could I have the rest of the answer when you were interrupted?

A. I could say the previous cashier was cashier January, 1937, and I took it June, 1937, and I fol-

lowed in her footsteps and did exactly as she had done with those receipts.

Q. How long have you been working with the Treasury Department?

A. It will be twenty-three years in January.

Q. So that you were in the Treasury Department in 1932 when the Code came in?

A. Yes, sir.

Q. And as a result of the Code legislation, do you know it to be a fact, and if so you may state it, that Mr. Runnells had much to do with the installing of a new system of accounting, handling, bookkeeping and vouchering of the State's business?

A. I would say he had all to do.

Q. And whether or not most of the documents and papers which have been used in the administration, as you observed them filtering through the Treasurer's office since 1932, have been documents or accounts or classifications or vouchers which he installed.

A. Exactly.

Q. I would ask: Is it a fact that in the Treasury Department where you were working you would sometimes receive some instructions from Mr. Runnells or his department as to how the accounts and the documents and the vouchers and the classifications which Mr. Runnells had installed should be handled in your department?

A. O, very often.

Q. Now sometime after the Code came in these slips commenced to show up?

A. Yes, sir.

Q. Was that right after the Code started?

A. Quite soon.

Q. And can you give us an approximation of the number of Departments of State which received revenue which was turned into the Treasury Department?

A. Well, I know the Insurance Department sent in a good many of them.

Q. No, I mean the number of departments and institutions which sent in collections to the Treasury Department, sent in revenue to the Treasury Department — forty or fifty?

A. All of that.

Q. And as I understand it in connection with the sending in of collections of money from some of these departments, these same

identical sales slips accompanied the deposit?

A. Yes, sir.

Q. Was that generally so with the institutions?

A. Yes, sir.

Q. And what other group of depositing departments or agencies would you say regularly used these receipt forms?

A. Well, the Insurance Department and the Department of Labor and Industry—

Q. On the other hand there were certain departments and agencies which did not use them?

A. Yes.

Q. And was one of the departments and agencies which to the best of your recollection did not use them, the Highway Department?

A. As I recall it.

Q. Well, do you, even though you did have a discussion of the matter with Miss Currier, do you recall, have you any recollection personally of ever having seen any of these receipt forms come with Highway money?

A. I can't recollect it. I remember them having come in recently, but I don't recall it before.

Q. That is, up to when Mr. Runnells got through you don't recall ever seeing a deposit of Highway money, Highway Department money, made in the Treasury accompanied by these receipt forms?

A. I can't recall.

Q. And that is your best recollection?

A. That is my best recollection.

Q. Now, might it be said that if you grant that that may have happened that it was very infrequent?

A. I would say so; yes.

Q. That is, you hesitated to contradict Miss Currier?

A. Yes.

Q. But in the event that there were any slips came in from the Highway Department it was extremely unusual?

A. Yes, sir.

Q. Now, did you ever receive any directions or instructions requiring you to pay any attention to, to handle or to file receipt slips that you received from the other departments?

A. Nobody ever gave us any instructions whatever in regard to them.

Q. And isn't that because along with the deposits, even from the departments which used them and sent them in to you, you also re-

ceived the so-called income receipts on which appeared distributing figures which permitted you to post the deposits to the right department's credit?

A. Yes, sir.

Q. And were those income statements which controlled your handling or the Treasury Department's handling of this income and the posting and bookkeeping?

A. That was all that we did, was the appropriation number and the amount.

Q. And in the case of these institutions which did use these receipt slips with some regularity you state that not only you didn't use them but that you put those receipts into a transfer file or box which later was delivered to or emptied by the Controller's office?

A. Yes, sir.

Q. And in that transfer file or box you would put however many copies of the receipts that you originally received?

A. Yes, sir; they never were disturbed.

Q. And in the physical handling of such of those receipts as did come to your attention with the deposits which you personally were handling did you ever have occasion to read them or to inspect one carefully?

A. Why, I didn't read one for any particular reason. I glanced at them.

Q. And is it true that all of the receipts from whatever department you did receive them all bore some serial number?

A. I presume they did.

Q. Well, is that your best recollection?

A. Yes, sir.

Q. Can't you say quite definitely that they did, having seen one of the printed forms?

A. Naturally they would.

Q. Have you with you one of those income distribution sheets?

A. I do have two which I picked up.

Q. May I see them, please?

A. Certainly.

(Defendant's Exhibits Numbers One and Two, marked.)

Q. I hand you document marked "Defendant's Exhibit No. 1" which is a long form of document and I ask you if that is one of the income sheets about which you have been talking?

A. Yes, sir.

Q. And handing you "Defendant's

Exhibit No. 2" is that another short form income blank which you have been talking about?

A. It is.

Q. That is, there were two sizes to the form?

A. No, they are torn off for our convenience.

Q. And whether or not these two were picked out at random by you from the Treasurer's file?

A. Yes, sir.

Q. They are not selected?

A. No.

Q. And whether or not it is a fact that in the general classification "State Highway Commission" which appears on Defendant's Exhibit No. 1 under the heading "Statement of Income from the" whether or not that was the general account classification of the State Highway Commission's deposits which had been set up by the Controller?

A. They were all signed that same way.

Q. But the name of the account was "State Highway Commission Account"?

A. Really the account that we use is the appropriation number, 9010, for instance, General Highway Fund and the total amount.

Q. Well, what I was getting at, was there more than one classification in the Highway affairs?

A. We received more than thirty different classifications of highway.

Q. And this Defendant's Exhibit No. 2 which apparently lists a description of checks with the amount is headed at the top "State Highway Commission"; is that correct?

A. That is right.

Q. And then further down there appears the words "general highway fund, 205, appro., 9010." Now, that "205 appro., 9010" was one of the classifications of accounts in the Highway Department?

A. Yes, sir.

Q. Of which you had thirty, did you say?

A. Over thirty.

Q. And was there any way of your knowing from any of the income that you received from the Highway Commission from just what source that money was received by the Highway Commission?

A. I never knew.

Q. That is, the legend "general highway fund, 205, appro., 9010" which is at the head of this recital of deposits didn't mean a thing to you?

A. The detail meant nothing.

Q. And was the fact that when you got such an income which apparently in this case covered all of the deposits you entered those deposits on your books in the account number 205, appro., 9010?

A. I entered the appropriation 9010, general highway fund, and the total.

Q. In other words, that "general highway fund" and so forth was the key by which you book-kept this revenue?

A. That is right.

Q. And could you tell today from looking at that particular income what the source of the income was or is reflected and distributed on that blank?

A. This says it was made up of a long list of checks and money orders.

Q. No, my question was, can you by looking at that blank today tell how the Highway Department got it or where it came from or why it got it or what branch of the Highway Department it came from?

A. No sir, and we weren't interested.

Q. And if there is any of that fund distributed on that which merely represents sales from the State Garage, there is nothing to indicate it?

A. No, sir.

Q. And Defendant's Exhibit No. 2 is another statement of income from the State Highway Commission which carries another classification heading and number?

A. Yes, sir.

Q. And whether or not that was the document which was the only document that you had ever been instructed to handle and which permitted you to book-keep the funds which you received from the Highway Department with it?

A. Yes, sir.

Q. So that any receipt slips that may have accompanied any such documents were surplusage to you so far as handling was concerned?

A. No value whatever. It was for the department.

Q. And these documents were taken today at my request that you bring generally a sample from the Treasury Department of the State of Maine?

A. Yes, sir.

Q. And that is part of your official file?

A. Yes, sir.

Redirect Examination

(By Mr. Brown)

Q. Mrs. Wheeler, did you ever read the provisions of the Code which relates to the legal duties of the Treasurer's office?

A. I don't believe I ever did.

Q. You have already stated that Mr. Runnells made up the vouchers and receipt forms and documents used in the accounting system? Is that true, that he did?

A. Yes, sir.

Q. And that you had operated under the theory that you had to follow the method thereby prescribed?

A. Yes, sir.

Q. And you have stated that when these receipts came in to you from the Bureau of Accounts and Control as brought in by Miss Currier that there was no way that you could tell that they originated in the Garage? Is that correct?

A. I didn't get that.

Q. As I understand your testimony you said when you were being examined by Mr. Gillin that it was impossible for you to tell when the funds were brought in to you that they had originated in the Highway Garage?

A. I would have no way of knowing. There was no income headed "State Highway Garage" and I didn't single that department out any more than any other department to wonder about it.

Q. I will ask you to examine the pink slip and you have stated that some departments filed those slips when they made those deposits.

A. Pink and blue.

Q. And Mr. Runnells, did he not, made up these receipts, form of receipts?

A. I presume so.

Q. Does it state on that pink slip what shall be done with it?

A. It does.

Q. What does it say?

A. "Triplicate to State Treasurer for file."

Q. Does it also state on there the origin of the funds which it represents?

A. Yes.

Q. So that if Miss Currier is correct when she states that she turned in these slips to the cashier, the cashier had an opportunity to see where those funds originated, did she not?

A. She had the slips.

Q. She had the opportunity did she not?

A. But the previous one did not do it.

Q. I will ask you this question once more and I would like to have it answered yes or no.

Mr. GILLIN: If he is going to question his own witness, he must take what answers the witness gives him.

Mr. BROWN: Although technically she is my witness, having called her, she has no sympathy for me. That is apparent. While she is a very fine lady and has acted splendidly, still her sympathies are not with the side of the case which I represent. Consequently I am entitled to some latitude.

Mr. GILLIN: Cross examine her if you will but don't limit her answers unless you take the position she is untruthful.

Mr. BROWN: Perhaps we will make better headway if I ask it again rather than have it read. If it is true, as Miss Currier says, that she turned in these receipts to you, it would then have been apparent where they originated if you had wished to inspect the receipts?

A. If it was filled out, I would presume so, yes.

Q. Assuming of course that it was filled out. Do I understand from you, Mrs. Wheeler, that in the cases where departments were turning in these receipts you still did not retain the pink slip?

A. No.

Q. That was sent back to the Controller's office?

A. Yes, sir.

Cross Examination (By Mr. Gillin)

Q. You just said you sent them back to the Controller. A little while ago I thought you said you left them in boxes or transfer cases and the Controller's office came and got them.

A. That is right.

Q. The Controller's office came and took all of them didn't they?

A. Usually one of the girls came and picked them up from the Controller's office.

Q. I would take this occasion, if I may, to ask you this: You have been occupying the position which you now occupy in the Treasury Department since Mr. Smith came in?

A. Yes, sir.

Q. Now with respect to the time that Mr. Smith spent in his office,

what would you have to say about that?

A. Well, that varied, but very often he would come in sometime Tuesday and would more often go home Thursday night or sometime Friday.

Q. How frequently did he spend the week in Augusta, or rather in the department?

A. Well, always during Legislature.

Q. What would you estimate as a fair average, not including the period where he spent his whole time here while the Legislature was in session, but during the other parts of the years, what would you give as a fair average of the number of days he would work in whole or in part in his department here?

A. Averaging it up, I would say between three and four days.

Q. Was that so generally from the time he came in as Treasurer?

A. Yes, sir.

Q. You are now speaking of the time he actually spent in the department of the Treasury?

A. Oh certainly.

Q. That doesn't include the time he may have spent in Augusta in the other departments or around the towns with his Municipal Reorganization Board?

A. Oh well, when he would be at the State House not always would he be in the office. If they had a Municipal Finance meeting he would be there sometimes.

Q. The question has been asked of Mr. Winship and I would like to ask it of you. What was the general attitude of the employees in the Treasury Department toward Mr. Runnells, his powers and authority?

A. Well, you just had an inferiority complex; that explains it.

Redirect Examination (By Mr. Brown)

Q. You stated, Mrs. Wheeler, in your best judgment that Mr. Smith spent three or four days a week. Did you mean around the State House or in his Treasurer's office?

A. Well, I said it would average at least three or four days a week. Part of that time would be upstairs perhaps.

Q. Did he ever spend an entire day a week in the Treasurer's office?

A. Oh I should say yes.

Q. Would you say he spent more than one entire day a week in the Treasurer's office?

A. I would.

Q. Would you say he spent more than two entire days in the Treasurer's office per week?

A. On an average or any time?

Q. Any particular day.

A. Oh yes.

Q. Did he ever come in and stay all day once a week?

A. Certainly.

Q. Did he ever come in and put in two whole days in the office once a week?

A. Will you repeat that please?

Q. Did he ever spend two whole days, two consecutive days in the office a week?

A. I would say yes.

Q. I wouldn't dare to ask you three. Well, now, tell me what he did while he was there.

A. Well if he had—whenever there were bond issues he had a good deal to do with that. He was always talking investments. He would have different investment men to talk with.

Q. Was that in regard to the trust funds?

A. I presume so.

Q. Did you ever discuss with him any difficulties you might be having in regard to your duties? In other words, what I mean is this: Did you go to him to get advice?

A. I never had occasion to.

Q. You never had any difficulties that would come up in the performance of your duties?

A. He would inquire many times: "How are you coming along?" or "How are things going?"

Q. Did he ever go into detail with you on any of the matters which you handled?

A. I believe not; not that I recall.

Q. He just asked the general question, "How are you getting along?"

A. Yes, sir.

Q. How many employees were there in that office?

A. Five.

Q. Did Mr. Smith ever consult with them in detail in regard to the work they were doing?

A. He never took their books or went to the cash drawer; none of those things.

Q. Did he ever sit down and discuss in detail with them the problems which confronted them or the nature of their work?

A. If they had a problem to take up with him they would go to him.

Q. Did they ever do that?

A. Some have.

Q. But you never did?

A. I don't recall of an incident.

Q. You say, Mrs. Wheeler, that the attitude of those in your office toward Mr. Runnells was that so far as they were concerned, they were suffering from an inferiority complex. Is that correct? You made that statement?

A. Yes, I did.

Q. Was it your opinion that that applied to Mr. Smith?

A. I wouldn't say.

Recess examination

(By Mr. Gillin)

Q. This unit in the Treasury Department which has been described and was headed by Mr. Winship, you attended to your various branches of duty in regard to bookkeeping, posting, and handling of cash. That part of the Treasury's duties Mr. Smith had no direct concern in?

A. No.

Q. There wasn't anything about that that you would have to take up with him or that he interrupted you with in working it out?

A. He went into no detail.

Q. That bookkeeping and post-in and doing the various things that have been described, that was completely routine and something that your particular group had been doing for years?

A. Exactly.

MR. BROWN: That is all, Mrs. Wheeler.

On motion by Mr. Spear of Cumberland,

Recessed until 7 P. M., Eastern Standard Time.

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

In the House

Called to order by the Speaker.

On motion by Mr. Varney of Berwick,

Recessed until 6:55 P. M., Eastern Standard Time.

In the House

(After Recess—6:55 P. M.)

The House was called to order by the Speaker.

The SPEAKER: The House was proceeding under committee reports when the Convention was last assembled.

Report of a Committee

Ought to Pass

(Out of Order)

Mr. Payson from the Committee on Legal Affairs on Resolve providing for a Research Committee to Study the Administration of State Affairs (H. P. 2259) (L. D. 1226) reported "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Report was read and accepted, and under suspension of the rules was given its first reading.

Committee Amendment "A" was read by the Clerk, as follows:

Committee Amendment "A" to H. P. No. 2259, L. D. No. 1226, entitled: "Resolve Providing for a Research Committee to Study the Administration of State Affairs."

Amend said bill by striking out all of said bill and inserting the following in place thereof:

"Resolve Providing for a Recess Committee to Study the Administration of State Affairs.

Recess Committee to Study Administrative Code

RESOLVED: That there be, and hereby is, created a legislative recess committee to consist of 3 members of the senate, to be appointed by the president of the senate, and 7 members of the house of representatives, to be appointed by the speaker of the house, which committee shall be known as the "Committee on Administrative Code." Said committee shall meet as soon as convenient after the appointment of its members, and organize by electing a chairman and secretary. Said committee shall study and consider the practical working of the administrative code and of those departments or agencies of the state government include within its provisions, and of all other departments and agencies of the state government, with a view to recommending such changes in the statutes relating to the administrative code and providing for the operation of the other departments of the state as may be necessary to improve administration of the affairs of the state of Maine; and shall draft and present with its report such amendments to the present existing statutes as shall, in the judgment of the committee, be necessary or advisable; and said committee shall make a partial report to this special session and/or

a full and complete report to the next regular session of the legislature, or it may file its reports with the clerk of the house during any recess of this special session. One thousand copies of either the partial or complete reports shall be printed. The committee shall be furnished an office in the State House in Augusta; the committee is authorized to employ such expert assistance as it may deem desirable, and the members of said committee shall be reimbursed for their actual expenses only; the said expenses shall be approved by the governor and council and shall be payable from the general funds of the state.'

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 Convention was called to order by the President of the Senate.

The Secretary called the roll:

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

Representatives: Arzonico, Ayotte, Bacon, Batchelder, Bates, Belanger, Bird, Bolduc, Bragdon, Brown of Caribou, Brown of Eagle Lake, Burbank, Burgess of Limestone, Butler, Buzzell, Chandler, Churchill, Cleaves, Clough, Cook of Lewiston, Cowan, Crockett, Cushing, Davis, Dean, DeBeck, Dennison, Donahue, Dorsey, Douglass, Dow of Eliot, Dow of Norway, Downs, Dwinal, Eddy, Ellis, Emery, Farwell, Fernald, Fowles, Good, Goss, Grua, Hall, Hanold, Haskell, Hawes, Hinckley, Hinman, Hodgkins, Holden, Holman, Howes, Hussey, Jordan, Labbee, LaFleur, Lambert, Larrabee, Latno, Leveque, Luro, Mahon, Maxim, McGillicuddy, McGlaulin, McNamara, Mercier, Mills, Murchie, Norwood, Noyes, Palmeter, Paul, Payson, Pelletier, Philbrick, Plummer, Poulin of Waterville, Pratt, Preble, Richardson, Robbins, Robie, Robinson of Bingham, Robinson of Peru, Robinson of So. Portland, Shesong, Slosberg, Smith of Thomaston, Smith of Westbrook, Snow of Dover-Foxcroft, Snow of Hermon, Stacy, Starrett, Stilphen, Townsend, Varney, Vio-

lette, Walker, Wallace, Whitney, Williams, Worth, Young of Acton.

Absent, Senators: Boothby, Chamberlain, Lewis, Spear, Wentworth, Worthen.

Representatives: Babin, Barter, Brown of Corinna, Bubar, Dorrance, Dow of Kennebunkport, Erswell, Everett, Fogg, Ford, Hildreth, Jewett, Keene, Lord, MacNichol, Marshall, Melanson, Merrifield, Meserve, Miller, Otto, Peakes, Pike of Lubec, Porell, Poulin of Rumford, Race, Ramsdell, Sleeper, Stevens, Sylvia, Tardif, Thompson, Weed, Weatherbee, Welch, Winslow, Winter.

GEORGE A. WHITTIER, Sworn

Direct Examination

(By Mr. Brown)

Q. What is your name?

A. George A. Whittier.

Q. Where do you live?

A. Boston.

Q. And what is your profession or occupation?

A. Auditor and accountant.

Q. And are you associated with the firm of Ernst & Ernst?

A. Yes, sir.

Q. Which made the audit of the records of the State House?

A. Yes, sir.

Q. Mr. Whittier, did you go up to the Garage and secure the sales receipts on file there?

A. I did, sir.

Q. And what did you do, what was your purpose in doing that and what did you do with them?

Mr. GILLEN: I object.

Q. (By Mr. Brown) I will ask this question, and you will refrain from answering it before an objection is made.

Did you check over those sales receipts in the Garage and total them?

A. Yes, sir.

Q. And will you now state—and you wait before you answer this question—will you now state the total which you found of those garage receipts?

Mr. GILLEN: Might I inquire the purpose of this evidence?

Mr. BROWN: I propose, Mr. Chairman, to show the total of the Garage receipts and then I propose by the same witness to show the total amount as displayed by the income sheets of the amount of the Garage cash turned into the Treasurer's office, the difference of which would be the amount of Garage receipts which were never re-

ceived by the Treasurer's office, it having been alleged in one of the counts of the information, as I recollect it right now, that there was lost to the State a particular sum of money, and this is the way in which I propose to establish that amount.

Mr. GILLEN: I object to that evidence as being completely incompetent to prove that. As I understand it, the prosecution now attempts to prove, first, that the State Garage sold commodities or made a large number of sales of commodities, the proceeds of which equalled a certain sum, and they then intend to prove, as they properly can, the amount of money that the State Treasury received from the State Garage, and then to compute a balance which they will say is the difference between the proceeds of what was sold and what was received. A necessary element of that equation of course is to prove what was sold. The best evidence of those sales would be the witness who made the sales. They propose apparently to have this man testify who looked over a group of receipts which were found in the Garage office, which have not been given any foundation as even reflecting sales or even identified by the people who made those receipts out. Those receipts, without having been identified with actual sales by the person making the sales and receipts, are completely hearsay evidence; they are pieces of paper on which appear figures and words, I assume, placed on them by persons who have not testified that they put them on, and the deduction is sought that because those pieces of paper with words and figures on them, unvouched for by the person who made those words and figures on those pieces of paper—and they themselves have no virtue of evidence because they are simply pieces of paper with words and figures on them—and for somebody to come and look at those pieces of paper with words and figures on them and to take a total of them and say, "This total represents commodities that were sold" is not a permitted legal conclusion based on evidence.

The CHAIRMAN: The reporter will read the question.

Mr. BROWN: If there is any question in the Chair's mind as to what the ruling should be, I would like to be heard a little further.

(Question read by the reporter)

The CHAIRMAN: The witness may answer the question for what it is worth.

Mr. GILLIN: I have another objection to that question.

If permitted to answer, if my remarks are not correct and my conclusion is not correct, and if it were permitted by such evidence to show that the Garage took in a larger amount of money than the Treasury received and that that money was stolen between the time the Garage took it in and the Treasury received the balance, that is proving a theft on the part of somebody who is not being tried. There is no evidential basis, and I claim there is no legal basis that the Treasury Department has any responsibility for thefts of State money which occurred outside of their department, and this is simply proof that there is a difference between what the Garage took in and what the Treasury received, and that cannot be competent evidence as bearing upon the efficiency of the State Treasurer. I object on that ground.

The CHAIRMAN: The Chair feels that counsel can take care of its client's interest by his own questions and argument and admits the question for what it is worth.

Q. How far back on these sales slips did you go from the standpoint of period of time?

A. 1930.

Q. Well, I think we should confine ourselves to the period of the present State Treasurer's office. Have you computed the total amount of such Garage receipts for the years 1937, 1938, 1939 and 1940?

A. Yes, sir.

Q. I will ask you to state that total.

A. For each year?

Q. No, not for each year. That total from January through 1940 to the end of your examination which as I understand it was up until last March.

A. March 31, 1940.

Q. For that period.

A. The total Garage receipts for that period amounted to \$56,595.13.

Q. Well, Mr. Whittier, in your examination of these receipts, did you find some that were illegible?

A. Yes, sir.

Q. Now, in those cases, what did you do?

A. I did not take them. They were thrown out.

Q. They were not included in

the amount of your computation?

A. That is right.

Q. So would it follow from that that if you had been able to procure the exact amount from all of the slips the total figure which you have rendered would be larger?

A. That is the natural assumption.

Q. Now, have you examined the records in the Treasury office as to the amount of cash which was turned into that office representing Highway Garage receipts?

A. Yes, sir.

Q. And have you made an itemized list of each of those departments with the Treasurer?

A. They were added on an adding machine tape.

Q. Did you examine each one of the deposits which was made with the Treasurer's office representing Highway Garage receipts?

A. Yes.

Q. And then did you total each one of those separate items?

A. Yes, sir.

Q. And will you now state to this Convention the total amount of Highway Garage receipts as reflected by the Treasurer's official records?

A. There was \$25,338.57.

Q. And does that represent the same period of time as the sales receipts?

A. That is for the period from January 1, 1937, to March 31, 1940.

Q. Just as a matter of mathematical computation, have you subtracted the amount of the total receipts of the Treasurer's office from the amount of sales receipts?

A. Yes, sir.

Q. And what is that figure?

A. \$31,256.56.

Q. And what does that figure represent?

Mr. GILLIN: I object to that.

Mr. BROWN: I will withdraw the question. That is all.

Cross Examination

(By Mr. Gillin)

Q. You, of course, do not know of your own knowledge that any of those slips represented actual sales?

A. No, sir.

Mr. GILLIN: I think that is all. Now, I should like to ask that that evidence be stricken from the record. There is no evidence that there were any sales made from those slips.

The CHAIRMAN: The Chair will

repeat his opinion that counsel can take care of his client's interest and abide by the Chair's decision that the evidence was admitted for what it is worth.

Mr. GILLIN: May I have exceptions noted?

The CHAIRMAN: Certainly.

Mr. BROWN: I might announce, Mr. Chairman, that I shall now direct my investigation to the fifth count which charges the Treasurer with allowing deposits of money in banks, which deposits exceeded twenty-five per cent of the capital stock and surplus of that particular bank.

RICHARD L. GARDNER, Sworn

Direct Examination

(By Mr. Brown)

Q. Your name, please?

A. Richard L. Gardner.

Q. And where do you live?

A. Boston, Mass.

Q. And what is your profession?

A. Public accountant.

Q. Are you connected with the auditing firm of Ernst & Ernst?

A. I am.

Q. Have you ascertained the amount of the capital stock and surplus of the Northern National Bank of Presque Isle?

A. The records of the Bank Commissioner's office were made available to us and the figures we show according to our schedule were taken from their records.

Q. When you say "we" what do you mean? You and other associates of yours?

A. That is right.

Q. You examined the records of the Bank Commissioner in this respect?

A. That is right.

Q. And did you have charge of that particular investigation?

A. The preparation of this schedule was assigned to me and I had one assistant working on it with me.

Q. Was this work done under your supervision?

A. That is right.

Q. Did you and your assistant make an examination of the Bank Commissioner's records in regard to the amount of capital stock and surplus of the Northern National Bank of Presque Isle?

A. Well, the Bank Commissioner's office provided us with a so-called Rand and McNally Bankers' Guide from which we ob-

tained our figures shown on the schedule.

Q. Did you obtain your figures from that particular guide in regard to both the National Banks and the State Banks or just the National Banks?

A. The Bank Commissioner obtained the reports from all the banks in the State other than national banks quarterly during the year and such of those as were available we obtained from the reports from the Bank Commissioner.

Q. Is the Rand and McNally Guide, as you call it, a publication of national repute?

A. As far as I know; it is, yes.

Q. And is it extensively consulted by auditors or other people who have occasion to learn the capital stock and surplus of national banks?

A. Well, my knowledge to that extent is concerned with our own firm. I know we have used it extensively.

Q. It is customary, then, is it, for your firm to consult the Rand and McNally Guide to ascertain the amount of capital stock and surplus of any national banks?

A. If direct information is not available we usually use some customary reference such as Rand and McNally.

Q. Have you made an examination from January 1, 1937 to May 31, 1940 of the capital stock and surplus of the Northern National Bank from the source which you have named?

A. That is right, on the dates that it was available.

Q. Do you recollect the date of the edition of the Rand and McNally publication which you used?

A. Well, we used three editions. There was one for 1937, one for 1938 and one for 1939.

Q. Did you examine the Treasurer's record to ascertain the amounts of deposit in the Northern National Bank of Presque Isle on the dates between January 1, 1937 and May 31, 1940?

A. Yes, sir.

Q. And did you make up a written report of those matters?

A. We did.

Q. And do you have that report with you?

A. I do.

Q. Well, Mr. Gardner, I will ask you, on the 31st day of March, 1937, what was the amount of capital

stock and surplus of the Northern National Bank of Presque Isle?

A. The amount was \$342,000.

Q. What was the amount of deposits of State funds in that bank on that particular day?

A. \$131,969.90.

Q. Have you computed the figure which would be twenty-five per cent of the capital stock and surplus?

A. I have.

Q. How much is that?

A. \$85,500.

Q. And have you computed the amount which the deposit exceeded that twenty-five per cent on that particular date?

A. I have.

Q. And how much is that amount?

A. \$46,466.90.

Mr. BROWN: Mr. Chairman, we might be able to save a little time if we could have a few minutes. I might be able to admit this without going all through it.

The CHAIRMAN: The Convention may be at ease.

Convention at Ease

Mr. BROWN: Mr. Chairman, I have here as compiled by Mr. Gardner, as he has stated from the Bank Commissioner's records and the Treasurer's records, the capital stock and surplus of the Northern National Bank of Presque Isle, the Lincoln Trust Company, the Millinocket Trust Company, the Newport Trust Company, the Norway National Bank, the Casco Bank and Trust Company, the capital stock and surplus of those particular banks on the dates set out in this particular report and the cash on deposit in those particular banks on the dates set out in this particular report, and also computed twenty-five per cent of the capital stock and surplus and the excessive deposits on the particular dates set forth in this resume, and I propose to offer this as evidence of what it purports to show.

(Proponents' Exhibit No. 43, being compilation of figures on capital stock and surplus of various banks, marked)

Mr. GILLIN: I have no objection to the manner of the form of proof and I admit the correctness of the figures.

Proponents' Exhibit No. 43, offered and admitted by agreement of counsel.

EVERETT W. DOWNS, Sworn

Direct Examination

(By Mr. Brown)

Q. Your name, please.

A. Everett W. Downs.

Q. And your residence?

A. Dover-Foxcroft, Maine.

Q. Are you employed by the State of Maine?

A. I am, yes.

Q. In what capacity?

A. Deputy Treasurer.

Q. In other words, you have assumed the duties of Mr. Winship's office?

A. As I understand it, yes.

Q. Have you made an examination of the amount of bonds that have been purchased according to the Treasurer's records since January, 1937?

A. I have.

Q. And what is the nature of those securities, that is, do they all pertain to trust funds from this examination which you made?

A. May I ask a question, please?

Q. Yes, you may.

A. What do you mean by examination?

Q. Examination of the Treasurer's record which I assume discloses the purchases which have been made and the kinds of securities bought.

A. I was requested Friday night to draw off a list of all securities bought since January 1, 1937, which I did.

Q. And that list which you have made was taken from the records of the Treasurer's office?

A. All the records I could find; yes.

Q. You have that list with you?

A. I have it.

(Proponents' Exhibit No. 44, being a list of securities, marked)

Q. There appears to be two columns on this list?

A. That is right.

Q. One is headed "Bought" and one is headed "Sold"?

A. Correct.

Q. Under the column caption "Bought" do the securities listed in that column represent the securities purchased?

A. That is right.

Q. Since January, 1937?

A. With two exceptions which were doubtful, which I later found were bought before that period.

Q. Are those included on that list?

A. Yes, they are on that list.

Q. Which ones do you refer to?

A. I refer to the certificate of deposit, Bamberger Electric Company, the Carleton Fund, and \$5000 Phillips Water Company in the Levi Stewart fund.

Q. Will you take your pen and strike those off, please.

Q. Then those lists now properly reflect in the column under the word "Bought" all of the securities purchased by the Treasurer according to his own records, since January, 1937?

A. In those funds, yes. The Farm Lands Loan Commission fund and the Teachers Retirement fund are not included in this list.

Q. Were there some purchases in those particular funds?

A. I believe there were.

Q. Very many?

A. I couldn't say how many.

Q. Mr. Downs, will you prepare a list of all of the securities which have been purchased by the Treasurer according to his records and have them here in the morning? Can you do that?

A. I will, if it is physically possible. I cannot say definitely that I can do that.

Q. We will leave it that way.

A. I will try.

Cross Examination

(By Mr. Gillin)

Q. Have you got a pad there? I would like you to make some computations if you will at the same time.

I will withdraw that. By conference with this witness I can do it quicker. I will do it after recess.

Mr. DOWNS: Mr. Chairman, may I have leave, please, to clarify exactly what he wants me to do?

The CHAIRMAN: Perhaps that can be done off the record.

Mr. BROWN: I would like to have you, Mr. Downs, if you can, prepare a list of the securities which have been purchased by the Treasurer as reflected by his own records from January 4, 1937 to May 29, 1940. Do you understand?

A. Not exactly. My understanding may not be entirely correct in regard to Mr. Smith's duty in buying bonds. I have given you a list of the bonds which I am led to believe that he was exclusively responsible for buying. If I am correct, and if I am not I beg your pardon, he is not exclusively responsible for buying the bonds in

the two funds which I mentioned which I excluded from my list.

Q. In other words, you mean, Mr. Downs, that the only investment which is under his exclusive charge are the trust funds. I think perhaps this would clarify it, Mr. Downs: If you will please make a list of the trust fund investments, that is by itself, and if you will also make a list of any other securities which appear of record in your office as having been purchased from January 4, 1937 down to May 29, 1940. Is that clear?

A. Yes.

Q. If it is of course physically possible in that length of time.

Mr. GILLIN: And would you also include a list of all the securities purchased with those funds which, as you understand it, he was not exclusively responsible for buying?

A. As I now understand it, I am to prepare a list of all securities bought for the trust funds?

Q. (By Mr. Gillin) You are taking it from the records of the Treasurer's office?

A. I should have to take it from the records.

Q. Well, would that include the two funds you say he is not exclusively responsible for?

A. As I understand it now, it would.

Q. The records show the purchases?

A. It is very difficult to find a division.

Q. Haven't you a purchase register?

A. No.

Q. What would you take it from?

A. Some pencil memorandum of Mr. Winship.

Q. Then to the best of your ability will you include all of the purchases that were made of securities in that period for any funds, including the two which you say are not exclusively the responsibility of the Treasurer?

A. I will.

The CHAIRMAN: Is there anything further, Mr. Brown?

Mr. BROWN: I have nothing else, Mr. Chairman, except to reserve the right to recall Mr. Downs, and if I might also reserve the right to put into the record some law which I think is pertinent to this investigation. That is, I haven't decided yet, but I may wish to go into the records some particular statutes.

The CHAIRMAN: Statutes of the State of Maine?

Mr. BROWN: Yes. And if I do decide to put those in later I would like to reserve the right to do it.

The CHAIRMAN: With these two reservations, your direct case is closed?

Mr. BROWN: Yes.

The CHAIRMAN: Are you ready to open, Mr. Gillin?

Mr. GILLIN: Mr. Speaker and ladies and gentlemen of the Convention: I am not going to make a long speech at this time because I know you are all tired and so am I, and anything I could say now can be well covered in the opportunity I will have to address you when the evidence is all in.

Generally speaking, I am going now to introduce some evidence which has a bearing on the scope and performance of the Treasurer's duties, and it will touch as it goes along upon the various points that have been mooted and discussed here through the last few days of rather desultory evidence. I think you are entitled to that much consideration from me because you have been considerate with us in the patient way in which you have listened to us in these last few days. Therefore, omitting any further prefacing statements, because I think you understand from the way the evidence has gone in the issues which will be discussed and decided by you, I will proceed now with the introduction of evidence.

MISS ROSEMARY CUNNINGHAM,
Sworn

Direct Examination

(By Mr. Gillin)

Q. Would you state your name, please?

A. Rosemary Cunningham.

Q. And you live in Augusta?

A. Yes.

Q. And what is your position here in the State House?

A. Secretary to Mr. Holley and Clerk of the Board of Emergency Municipal Finance.

Q. And whether or not as secretary to that Board you have with you the records of the meetings and proceedings of that Board?

A. Yes, I have, as Clerk of the board, not secretary.

Q. And have you, at my indirect request, gone through that record book and caused to be prepared a schedule which shows various meetings and conferences of that board

at which Mr. Smith was present and took part?

A. It shows the formal meetings but not the informal ones.

Q. And in addition to the formal meetings set forth in that schedule, were you present at informal meetings of the board when Mr. Smith was present?

A. Yes.

Q. And how frequently would you say those informal meetings occurred, so many a month or so many a week?

A. It was according to how much important business might be pending.

Q. Well, can you give us some idea of the frequency of the informal meetings of the board which Mr. Smith attended in the year 1939?

A. I think perhaps once a week.

Q. Once a week. And what about 1938?

A. Well, I came in May, 1938.

Q. You what?

A. I came in May, 1938.

Q. Well, was the rate of the informal meetings of the Board which he attended during the period of 1938 in which you were secretary about as frequent?

A. I would say so.

Q. And have you with you a copy of this record that you have prepared?

A. Yes, I have.

Q. And would you take it for the purpose of refreshing your recollection so that I may interrogate you further? Have you a copy with you?

A. Yes, I have.

Q. Now was there a meeting of that Board on May 10, 1937, a formal meeting in Mr. Holley's office?

A. According to the record.

Q. And Mr. Holley and Mr. Smith and Auditor Hayford were present?

A. According to the records. I wasn't here then.

Q. According to the record?

A. Yes.

Q. That was on May 10, 1937?

A. Yes.

Q. And on June 8, 1937 was there a formal meeting of the Board at Mr. Holley's office at which Mr. Holley, Mr. Smith, Mr. Hayford, Mr. O'Connell, Mr. Clifford and others were present?

A. According to the records, yes.

Q. And were there present at that meeting, according to the rec-

ords Mr. Martin, Mr. Richards, and Mr. Violette?

A. Yes.

Q. And on August 9th, 1937 was there another meeting of the Board at Mr. Holley's office which Mr. Smith, Mr. Hayford, and Judge Fogg attended?

A. Yes.

Q. On August 11, 1937, was there a meeting at Van Buren, according to the record, at which Mr. Smith, Mr. Hayford, Mr. Burkett and Mr. Crawford were present?

A. Yes.

Q. On August 23, 1937 was there a meeting at Mr. Holley's office at which Mr. Holley, Mr. Smith and Mr. Hayford were present?

A. Yes.

Q. On August 24 was there a formal meeting in Mr. Holley's office at which those three gentlemen and Mr. McMonagle were present?

A. Yes.

Q. On September 8, 1937 was there another meeting at Mr. Holley's office at which Mr. Holley, Mr. Smith and Mr. Hayford were present?

A. Yes.

Q. And again on the 9th of September, 1937?

A. Yes.

Q. And again on September 21st another meeting at Mr. Holley's office at which Mr. Holley and Mr. Hayford were present and at which Mr. Smith was in conversation by phone?

A. Yes.

Q. On October 2nd, was there a meeting at the Executive office, a meeting of the Board at which Messrs. Holley, Smith, Hayford, Burkett, Deering, and Governor Barrows and J. W. Thompson were present?

A. Yes.

Q. On October 5, 1937 was there a formal meeting of the Board at Mr. Holley's office at which Mr. Holley, Mr. Smith and Mr. Hayford were present?

A. Yes.

Q. On October 8, 1937 was there a meeting in Mr. Holley's office at which Mr. Holley, Mr. Smith, Mr. Hayford, Mr. Runnells, Mr. Peterson and others were present?

A. Yes.

Q. And again on October 15th, was there a meeting in Mr. Holley's office at which Mr. Holley, Mr. Smith and Mr. Hayford were present?

A. Yes.

Q. And on October 29th, 1937 was there a meeting in Mr. Holley's office at which those three gentlemen were present?

A. Yes.

Q. On November 17, 1937 was there a formal meeting of that Board in Mr. Holley's office at which those three gentlemen and Mr. Crawford were present?

A. Yes.

Q. On December 7, 1937 was there a meeting at which Mr. Holley and Mr. Smith and Mr. Hayford were present?

A. Yes.

Q. And again on December 15, 1937?

A. Yes.

Q. And another meeting on December 23, 1937?

A. Yes.

Q. And on December 29, 1937?

A. Yes.

Q. And were there meetings on the following dates in the year 1938 at Mr. Holley's office at which Mr. Smith was present with Mr. Holley and Mr. Hayford, and I will read the dates: January 8, 1938; February 7, 1938; February 8, 1938; May 11, 1938; May 19, 1938; July 5, 1938; September 23, 1938. Is that correct?

A. Yes.

Q. And was there a formal meeting of the Board on October 14, 1938 at Blaine, Maine, at which were present Mr. Holley, Mr. Smith and Mr. Hayford?

A. Yes.

Q. And another meeting at Kingman, Maine, at which the same three gentlemen were present?

A. Yes.

Q. And on October 19, was there a meeting in Augusta in Mr. Holley's office at which Messrs. Holley, Smith and Hayford were present?

A. Yes.

Q. And again on November 8, 1938?

A. Yes.

Q. And again on November 9, 1938?

A. Yes.

Q. And on November 22, 1938 at which Messrs. Holley, Smith, Hayford, Burkett and Crawford were present?

A. Yes.

Q. And another meeting on December 7, 1938 at which Messrs. Holley, Smith, Hayford and Packard were present?

A. Yes.

Mr. BROWN: Mr. Speaker, I wish to enter an objection to this

evidence going in now because it is obviously for the purpose of showing that Mr. Smith was so busy with the sittings of this particular Board of which he was an officer, I believe, by virtue of his Treasurer's office, that he had no time to attend to his duties. It can't possibly be an excuse for him to neglect the primary duties of his office to attend to some secondary duties which could have been adequately attended to by other members of that Board who were present anyway, and so I object to the Defense entering such evidence as this because I can't conceive how it possibly can be a defense.

The CHAIRMAN: The Chair feels that the facts as to Mr. Smith's attendance at meetings are clearly admissible and the deductions to be drawn therefrom may be such as the facts warrant.

Mr. GILLIN: Mr. Chairman, my brother has been completely misled as to the purpose of this evidence. It is to show that he was quite busy as State Treasurer because he was State Treasurer and in behalf of the duties of the Treasurer of the State of Maine he was attending these meetings in addition to the other duties of his office.

The CHAIRMAN: Counsel may proceed.

Q. And on December 7, 1938 was there a formal meeting of the Board in Mr. Holley's office at which Messrs. Holley, Smith, Hayford and Packard were present?

A. Yes.

Q. And on December 28 was there a meeting in Mr. Holley's office at which were present, Mr. Holley, Mr. Smith and Mr. Hayford?

A. Yes.

Q. And on January 3, 1939 was there a meeting in Mr. Holley's office of the Board at which were present, Mr. Smith, Mr. Holley, and Mr. Hayford?

A. Yes.

Q. And on January 17th, January 26, February 6th, February 7th, February 8th, March 23rd, and March 30th, were there meetings in Mr. Holley's office at all of which Mr. Smith was present?

A. Yes.

Q. And on May 3, and May 23rd were there meetings in Mr. Holley's office at which Messrs. Smith, Holley and Hayford were present?

A. Yes.

Q. And again on June 14, 1939 was there a meeting at which Mr.

Holley, Mr. Smith and Mr. Hayford were present in Mr. Holley's office?

A. Yes.

Q. And on August 1, 1939 was there a formal meeting at Stockholm, Maine, at which Mr. Holley and Mr. Smith were present?

A. Yes.

Q. And on August 1, 1939 was there another meeting in Fort Kent at which the same two gentlemen were present?

A. Yes.

Q. And on August 3, 1939 was there a meeting at Eagle Lake and also another meeting at Fort Kent at which Messrs. Holley, Smith, Hayford, and Burkett were present?

A. Yes.

Q. And on August 9 was there a meeting in Mr. Holley's office at which Mr. Holley, Mr. Smith and Mr. Hayford were present?

A. Yes.

Q. And on August 23rd, 1939 was there a meeting at Mr. Holley's office at which Mr. Holley and Mr. Smith were present?

A. Yes.

Q. On October 13 was there a meeting in Mr. Holley's office at which Mr. Holley, Mr. Smith and Mr. Hayford were present?

A. Yes.

Q. And on October 13, and October 18 were there meetings in Mr. Holley's office at which Mr. Holley, Mr. Smith and Mr. Hayford were present?

A. Yes.

Q. And on February 14, 1940, February 26, 1940, February 27, 1940 were there meetings in Mr. Holley's office at which Mr. Holley, Mr. Smith and Mr. Hayford were present?

A. Yes.

Q. You have been keeping the record of the meetings since when?

A. The fall of 1938, I think.

Q. And were you present at those meetings?

A. Yes.

Q. And would you give us some idea of the length of time that those meetings consumed? Were they long or short meetings or would they vary?

A. Sometimes they would run the whole day. I think they averaged half a day.

Q. You think the average of the meetings I have read as being held in Mr. Holley's office would last half a day?

A. Yes.

Q. And the meetings at other places sometimes consumed a whole day?

A. We have budget meetings lasting two days, in the winter.

Q. And those are among the meetings that I have read?

A. Yes.

Q. And at the informal conferences would you be present?

A. Sometimes.

Q. What would be the nature of the business done at those informal meetings?

A. There might be a letter or something like that come in and they would read it before they had a meeting.

Q. Were there any of those informal meetings at which the budgetary situation of the State was discussed?

A. I don't think so.

Q. Did they discuss with respect to those towns in distress in Aroostook County?

A. Yes.

Q. And discuss general matters at those meetings?

A. I don't think so.

Cross Examination

(By Mr. Brown)

Q. Were you present at all of the meetings that you have testified to here?

A. No. Those came from the official records.

Q. Well, I thought you were Secretary of this Board.

A. I am Clerk. Mr. Hayford is Secretary.

Q. Who keeps the records?

A. The Secretary and Clerk. Different ones kept them. But there was someone else kept them before I was there. I took those from official records signed by Mr. Hayford.

Q. Well, I may have misunderstood you but I understood from your testimony on direct examination—and I may be wrong—that you were present and made those records.

A. I didn't intend to state that I made all of them. I wasn't here until May, 1938 and some of those were in 1937.

Q. Then you of your own knowledge don't know anything about what this statement purports to show?

A. I know from the official records that I have in the office that were kept at the time.

Q. But you weren't present at any of those conferences?

A. Oh, yes. I was present since 1938.

Q. At about how many would you say you were present since 1938?

A. I would say I was present at all of them since 1938, with the exception of Blaine and Kingman and Silver Ridge; I wasn't at those.

Q. Now, does that report of yours seem to reflect that Mr. Smith attended these meetings about once a week?

A. No.

Q. He didn't attend them as often as that?

A. Not formal meetings, I don't think. I said informal meetings.

Q. In your opinion how many times did he attend a formal meeting during a month?

A. As many times as they show on that report.

Q. For August, 1937, how many times did he attend?

A. There were four in August 1937.

Q. How many times did he attend in November 1937?

A. I would say one.

Q. How many did he attend in January 1938?

A. One. That is all there was.

Q. That is still all he attended.

A. Yes.

Q. How many times did he attend in March 1938?

A. There are none, I should say.

Q. What is your answer, please?

A. None.

Q. How many times did he attend in May 1938?

A. Two.

Q. How many did he attend in July 1938?

A. One.

Redirect examination

(By Mr. Gillin)

Q. In November, 1937, there was only one meeting wasn't there?

A. Yes.

Q. He attended it?

A. Yes.

Q. And the same with January, 1938, there was only one meeting that month?

A. Yes.

Q. He attended it?

A. Yes.

Q. In May there were two meetings and he attended one of them, May, 1938?

A. He attended both.

Q. In July there was only one meeting?

A. Only one meeting.

Q. And he attended that?

A. Yes.

Q. My brother picked out the months where there was only one meeting.

Recross examination

(By Mr. Brown) .

Q. Just about three questions: How many meetings did Mr. Smith attend in March of 1939?

A. Two.

Q. How many did he attend in May of 1939?

A. One.

Q. How many did he attend in June of 1939?

A. One.

Q. How many did he attend in September of 1939?

A. None.

Q. How many did he attend in November of 1939?

A. He was consulted by phone at that meeting. There was one meeting in November, 1939.

Q. And he attended it by telephone?

A. I said he was consulted by telephone.

Q. Did he attend the meeting?

A. No.

Q. That was November, 1939?

A. Yes.

Q. How many did he attend in December of 1939?

A. None.

Q. How many in January, 1940?

A. There were no meetings in January, 1940.

Q. So he attended none?

A. That is right.

Redirect examination

(By Mr. Gillin)

Q. As a matter of fact, nobody attended in January, 1940, because there wasn't any?

A. That is right.

FRANK H. HOLLEY, Sworn

Direct examination

(By Mr. Gillin)

Q. Will you state your name?

A. Frank H. Holley.

Q. And residence?

A. My residence is North Anson.

Q. What is your official capacity in the State Administration?

A. State Tax Assessor.

Q. How long have you been State Tax Assessor?

A. Since January 1st, 1932. Previous to that, Chairman of the Board of Tax Assessors when it was a three

man board from July 17, 1931 to January 1, 1932.

Q. And are you also a member of the Municipal Finance Board?

A. I am a member of the Board of Emergency Municipal Finance.

Q. And that Board gives its particular attention to assisting the plight of towns throughout the State which have gotten into financial difficulties?

A. That is right.

Q. Who else is on that Board with you?

A. The Treasurer of State and the State Auditor.

Q. And when did that Board come into existence?

A. That Board came into existence after the passage of the law in the Legislature of 1933, if I am not incorrect.

Q. Now since January 1937, since Mr. Smith has become Treasurer, have you had occasion by reason of your position as Commissioner of Taxation and Chairman of that Board of Municipal Finance—you are Chairman?

A. Under the law, the State Tax Assessor is the Chairman of the Board of Emergency Municipal Finance.

Q. And you have been in somewhat constant contact with Mr. Smith as State Treasurer as a member of that Board?

A. The duties made constant contact necessary.

Q. And over that period of time how many towns in our State have received relief which that Municipal Finance Act provides?

A. During that period of time since January 1st, 1937, several towns have been considered by the Board and twelve have asked the Board to assume control of their affairs.

Q. And those are towns that came into complete emergency situation by virtue of lack of money and pressing claims so that they had to have relief?

A. I didn't get the question.

Q. Those towns were towns which got into such financial difficulty that they had to have State assistance?

A. That appeared to be necessary to the Board after we had investigated the affairs of the communities which we assumed control of.

Q. I didn't get the last part of your answer.

A. It was the opinion of the Board in all the towns where we have assumed control.

Q. What part did Mr. Smith play in the matter of investigating or considering the plight of those towns and in rendering service in helping those towns out of that plight, as a member of that Board?

A. He performed the ordinary functions of a member of the Board. They are rather difficult to describe because I assume every person here knows that the field of activities for the Board of Emergency Municipal Finance was an entirely unexplored field. It has taken a great deal of time and patience to work out a program in these towns that have happened to fall into financial distress.

Q. Did that situation necessitate travelling around the State on the part of the Board and on the part of Mr. Smith to quite an extent?

A. Yes, it did necessitate travelling around the State to a substantial extent, and it necessitated also what we believed to be the exercise of unusually good judgment.

Q. And was that travelling around the State more extensive than was indicated by the number of meetings in places out of Augusta than the Clerk of the Board just read?

A. On several occasions when the distressed town happened to be in the eastern area of the State, for the purpose of saving time and expense, the Board has asked Mr. Smith to make investigations for the Board.

Q. Did those investigations involve going into that town and surveying its complete financial structural set-up, its financial plight, and in working out a solution of it temporarily in some cases and more permanently in others?

A. In the first place it required what we believed was the exercise of good judgment, as I have already stated. It also required a man of some tact who could ascertain, without too much antagonism, if I may say so, the true facts as they existed in the community. On some occasions we have asked Mr. Smith when he was in the immediate area where distress appeared to make such investigation.

Q. Since Mr. Smith's incumbence in office, and being ex officio a member of that Board, did that require more or less his constant attention?

A. The Board has worked in very close cooperation and inasmuch as we were in a new field of activity entirely, we have seldom made a

mold which would indicate a permanent type of procedure until we have had a conference of the Board. This has required a great deal of my time as well as the time of the other two members.

Q. With respect to the availability for service in that connection and the efficiency of its performance on the part of Mr. Smith, what can you say?

A. Mr. Smith has usually been available and when he was not available to suit the convenience of the other two members of the Board, we have usually delayed proceedings until we could contact him.

Q. Why was that?

A. Well that was because we had confidence in his judgement and, once more repeating myself, we were in a new field of endeavor. The matter of the State assuming control of local government is a comparatively new procedure in our method of living in this State, and we have gone, may I say, very slowly, and attempted to establish facts which indicated that our activities were necessary before we assumed control of the government of any community.

Q. Now in addition to the plight of the towns which evidently came under the jurisdiction of the Board for direct assistance is it a fact that in the last two or three years a large number of towns throughout the State have got themselves into a difficult plight by reason of their inability to collect taxes?

A. I think it is a matter of common knowledge.

Q. And has that involved to you considerable attention on the part of both you and Mr. Smith to work out to some extent, either in an advisory or directory capacity, the plight of a greater group of towns than those you have actually taken over?

A. We like to think we have been helpful in assisting various communities to solve some of their problems without going to the extent of assuming control of their government.

Q. Mr. Smith took part in the activity?

A. Yes.

Q. To quite an extent?

A. The same as any other member of the Board.

Q. How many problems of towns do you think you have considered other than those you have taken over?

A. I could not state from memory, but only last week we had an informal discussion of a town in Maine which wonders whether it will be able to open its schools in September or not. This is fresh in my memory, but I would rather not mention the name of the town and I think it would not be fair.

Q. Whether the problem of collecting State taxes which Mr. Smith by reason of the treasuryship, and you by reason of your official capacity, has developed in this situation that many times after investigation there was a tacit difference of assessment of collection of State taxes in order that the town might use the money for necessary things, such as keeping schools open?

A. Will you ask your question more direct so I can answer it better?

Q. Many of the towns you have spoken of have been up against it, if I can use the term, to such an extent that opening schools and taking care of the poor has meant cooperation of Mr. Smith in his capacity as State Collector of Taxes?

A. I could give my opinion.

Q. What is that?

A. My opinion is—

Mr. BROWN: I object to the introduction of this evidence because I am not contending here that there has been no collection of town taxes. The only evidence I have put in is relative to banks and one railroad.

Mr. GILLIN: Again I feel my brother has misconceived the purpose of this evidence.

Mr. BROWN: I usually do.

The PRESIDENT: The Chair feels this fringes on the margin of liberality, but in view of the liberal attitude taken thus far will hesitate to rule the inadmissibility of this question.

Q. Will you go on, Mr. Holley. You were expressing your opinion as to the necessity of cooperation and the cooperation which Mr. Smith, as State Tax Collector, after investigation of the problems of these many small towns, has exercised in permitting them to have money to keep schools open and take care of the poor?

A. I think it is common knowledge among those who are concerned in governmental affairs. In the last few years it has been exceedingly difficult for many communities to pay the State tax because of their failure to collect lo-

cal taxes and sometimes when there is no money in the treasury the schools are among the first to suffer. In those cases, I am of the opinion that Mr. Smith has been what might be termed lenient.

Q. Has Mr. Smith, in your observation, been an efficient Treasurer of State?

Mr. BROWN: Just a minute—just a minute.

Mr. GILLIN: If you want me to withdraw the question, I will.

Mr. BROWN: I shall insist upon my objection. This man is apparently an assessor and if his particular office requires most of his time as it should, I cannot understand how he had an intimate knowledge of the manner in which Mr. Smith functioned.

Mr. GILLIN: I thought my question was prefaced by showing he had constant contact with Mr. Smith.

Mr. BROWN: It is, in regard to this particular board.

The CHAIRMAN: The Chair would hesitate to question any opinion by Mr. Holley, but would be inclined to—

Mr. GILLIN: I will withdraw the question.

Q. How frequently do you have contact with Mr. Smith, as Treasurer, and other capacities than as a member of the Board of Emergency Relief?

A. I would think often. Mr. Smith has discussed with me some of the affairs of the Treasurer's office and I would think often I would discuss with him, as I have with other officials, some of the affairs of my own office.

Q. Well, would you be able to give us an idea of how frequently those conversations or talks occurred? Could you measure in so many times a week or so many times a month?

A. I could measure the times I probably conferred with him on the Board of Emergency Municipal Finance outside of what appears in the official records. I doubt if I could measure the other matters because they are more or less a matter of receiving information, one from the other, on various activities which may have gone on within the confines of our respective offices.

Q. Would you say you have had a weekly contact with him over the past year?

A. I would say on the average, more than weekly.

Q. Well, what would be your approximation of the official contact betwixt you and Mr. Smith during the past year?

A. I could only approximate it, of course, but I would think we had had during his term of office probably 75 official meetings, although I do not know how many were presented here as evidence. I would think it didn't represent more than one-third of the actual conferences held, not only with Mr. Smith but with Mr. Hayford and Judge Fogg and Mr. Burkett and Mr. Packard, Commissioner of Education, and tremendously interested in schools of the State.

Q. Now, speaking of contacts, which occurred in connection with the Board of Municipal Relief?

A. Well, I would think the contact was on the average, both formal and informal, more than twice a week.

Recross Examination

(By Brown)

Q. Mr. Holley, you intrigue me because your Board has apparently taken over most of the towns in my county and I have never understood its mechanics until now, and I am wondering when you intend to take over the belt. You say this Board consists of yourself, Mr. Smith and Mr. Hayford? Is that correct?

A. I said the Board consisted of the State Auditor, State Treasurer and State Tax Assessor.

Q. Who composed this Board up until the last month or two?

A. Mr. Smith, Mr. Hayford and the State Tax Assessor.

Q. That would be yourself?

A. Yes.

Q. Was I not correct in my statement the first time?

A. I do not wish to argue with you.

Q. Well, I am doing my best to avoid it. Now, this Board met how often, would you say, once a week?

A. I would think the Board met as often as the records indicate officially.

Q. Have you reviewed the records?

A. I have not.

Q. Well, how would you say then that this Board has met as often as the records indicate?

A. I didn't get your question.

Q. I asked you how often you

thought this Board met and you said, as often as the records showed. I asked you if you had read the records and you said, no.

A. I never have read the records which I understand contains an official analysis of the number of formal meetings.

Q. I would ask then, in your judgment, how often did this Board have informal meetings?

A. I think I have just testified—

Q. I am asking—

Mr. GILLIN: Let the witness finish his answer.

Mr. BROWN: I am asking a question and he says he thinks he has testified.

Mr. GILLIN: I ask that the witness be given the privilege of finishing the answer to the question.

Mr. BROWN: He is trying to answer the question, which is not responsive.

The CHAIRMAN: Will you answer the question as asked.

Mr. HOLLEY: What was the question?

Q. I will ask you this question once more, Mr. Holley, and if you will, confine your answer directly to the question. How often, in your judgment, did the Emergency—I do not know the exact title, but this Board we have been discussing, meet?

A. Shall I answer that from official meetings or do you refer to to both official and unofficial, or formal and informal meetings?

Q. We will take first the formal?

A. I would say in the neighborhood of 40 meetings a year of a formal nature.

Q. That would be slightly more than three a month? How many informal meetings, in your best judgment?

A. I would think there were more informal conferences, if they might be termed meetings, than there were formal.

Q. Now, just what were the particular functions of this Board?

A. I would be very happy to answer that question as I understand it. This Board was created for the purpose of investigating and if in its judgment was necessary, to assume the supervision of the government of towns, if they failed to pay their school teachers, if they were more than a year and a half in arrears in their taxes to the State of Maine and if they had failed to pay their bonded debt as it became due, or failed to pay the interest thereon, and the Legislature of 1939

also provided that any town that should receive emergency aid from the State should apply for control of this Board to supervise its governmental affairs.

Q. Now, Mr. Holley, any one of these situations having occurred, this Board then assumed jurisdiction, so to speak, of the management of the affairs of these towns? Is that right?

A. After what we believe to be proper investigation and, in some cases, a preliminary audit.

Q. All right. Circumstances being such that it was the opinion of this Board that a town was no longer able to continue its self-management, and your Board having assumed jurisdiction, it was then customary, was it not, for this Board to select an agent or a town manager, whatever you call it, and put him in charge of the affairs of the town? Is that correct?

A. The Board chose a Commissioner under the law to supervise the government of these respective communities and he to be under our supervision.

Q. And it is a fact, is it not, that from then on he managed the affairs of the town, the Commissioner?

A. I didn't get the question.

Q. And it is a fact, is it not, that from the time of the appointment of the Commissioner that Commissioner handled the affairs of that particular town?

A. Under the guidance and supervision of the Board, and was responsible to the Board for his action.

Q. Well, you would place a Commissioner in that particular town with instructions to handle its affairs?

A. The answer is yes.

Q. And then you communicated with him on occasions? Is that not correct?

A. I don't get that question.

Q. And your Board communicated with him on occasions from then on?

A. He usually communicated with us.

Q. But you wouldn't go so far as to say that this Board had the actual management of the business affairs of any of these towns, would you?

A. I couldn't deny that it had. I would answer your question this way, if it is permissible: We have never attempted to supervise the

minor details of twelve communities, some of them 350 miles away, but we have endeavored to keep in close touch with the administrative affairs of every community which the Board has assumed control of.

Q. Now as I remember your testimony, Mr. Holley, you stated at some length that Mr. Smith was in constant conference with Mr. Burkett, with Mr. Fogg, with the various Boards on which he sat, or at least I got that impression. Do you intend that I should get the impression that Mr. Smith was a perpetual conferrer?

A. Was a perpetual what, please?

Q. Conferrer.

A. Conferrer? I would think that the Board held numerous meetings which it has been testified to, and at those meetings "confers," if you do not object to the term, appeared to be necessary, and we often called men whom we believed had good judgment to confer with us.

Q. Your opinion is that Mr. Smith is a man of good judgment? Is that correct?

A. That is my opinion.

Q. Can you state any particular instances in connection with the duties of this particular Board under discussion where Mr. Smith has exercised some judgment on which you have relied?

A. Yes.

Q. Please do that?

A. On one occasion which I recall very vividly, a certain town in upper Penobscot County found itself with its schools closed and the teachers had written to our Board, and inasmuch as it was several miles from the seat of government here and inasmuch as Mr. Smith could reach it more easily from Bangor, the board asked him to make the investigation in that community, and that was done. We did not visit the community as a Board. The community is today perhaps nearly sound financially and the schools have never been closed.

Q. Did you appoint in that particular town a commissioner?

A. I didn't get the question.

Q. Did you appoint in that particular town a commissioner?

A. We didn't even have to assume control of the town. The town took care of itself by advice and counsel of those who were endeavoring to give them assistance.

Q. Well, I don't know as it is clear to me. Am I to understand that this Board conferred with the

officials of that town, that the officials of that town acted upon the advice that was received from this board and thereby proceeded to make headway in its financial affairs?

A. You are to understand that the Board never visited this town as a Board, that the Board asked Mr. Smith to confer with the officials of that town and he did, and it is my opinion that it was beneficial.

Q. Do you think of any other instances?

A. Yes.

Q. What would be one of them?

A. Another errand of a similar nature into a more easterly section of the State with similar results.

Redirect Examination

(By Mr. Gillin)

Q. Do I understand that those two instances were instances where Mr. Smith went in alone where the town was in distress and straightened out their affairs so that they got back on their feet and the schools kept open?

A. I do not think you should understand that. The instance was where Mr. Smith went instead of the entire Board going, because of his nearness to the distressed community, and he had a conference with the officials of the town and the records show in that community that they have taken care of their own affairs.

Q. And you attribute, as I understand, that result to quite an extent to Mr. Smith's conferring efforts?

A. Well, take the records as a matter of fact. The town was in distress when we conferred with the officials and we have had no trouble there since.

Recross Examination

(By Mr. Brown)

Q. It is a fact, Mr. Holley, that economic conditions in a particular locality have a great deal to do with the financial condition of a town?

A. They have a very great deal to do with it, yes.

Q. Particularly in sections like Aroostook County, regardless of whether a town is being managed efficiently, if the price of potatoes is down the town is in serious financial straits?

A. Economic conditions reflect themselves everywhere.

Q. And if a town in those cir-

cumstances receives efficient management, nevertheless, if the economic situation is depressing, it may be in serious financial straits, may it not?

A. That is right.

Mr. BROWN: Mr. Speaker, there is a matter I would like to mention before I forget it. It may be purely technical, but, under the rules of this Convention it is provided that no one is allowed on the floor of this Convention except the members and the attorneys and the necessary officials. I would like, for the sake of the record, to have it appear that the Chair has consented that Mr. Wilkinson be permitted on the floor. I say it is probably purely technical, but I would like to coincide with the rules.

The CHAIRMAN: It may appear in the record that the President of the Senate and the Speaker of the House have consented to Mr. Wilkinson's presence.

FREDERICK ROBIE Sworn.

Direct examination

(By Mr. Gillin)

Q. Will you state your name?

A. Frederick Robie.

Q. What is your position in the State government?

A. Secretary of State.

Q. And how long have you been Secretary of State?

A. Since January 4, 1937.

Mr. GILLIN: I might state generally the purpose of the evidence which I am introducing through Mr. Robie, which does not connect up with the last witness, but I wanted to accommodate Mr. Robie's time and I am putting it in at this time.

There is a question of peak load deposits which have resulted in some exceeding of the statutory deposit limit from one construction of the statute in some of the banks around the State, and I wish to show a condition which made necessary that peak load at various designated depositories around the State from some of the departments of the State, one of which is the Secretary of State's office, which has under its conduct the registration offices throughout the State, and for that purpose I am going to ask Mr. Robie to indicate the spread of his offices, when they are open, and go to some extent into the volume of the money that is collected and put into the banks over the last couple of years.

The CHAIRMAN: You may proceed.

Q. (By Mr. Gillin) Mr. Robie, you have under your supervision as Secretary of State the State registration offices where people register their motor vehicles and get their drivers' licenses?

A. Yes.

Q. And where are located the permanent registration offices?

A. Portland, Auburn, Rockland, Bangor, Calais and Presque Isle.

Q. And whether or not, because of the necessity of accommodating the populace at those times of year when the taking out of licenses and registrations come up, you have what is termed temporary registration offices?

A. Following the January operator's rush and before the registration rush in March we establish temporary offices in thirty-four of the larger communities on two days to a full week's basis.

Q. And what month of the year is it that you open up these temporary registration offices?

A. Starting generally the first week in January and continuing through the middle of February. We try to have all the clerks and inspectors back in the main office by the middle of February.

Q. And those temporary offices along with the permanent registration offices take in a considerable volume of money during the last mentioned period each year?

A. Yes.

Q. Now, do you in your temporary set-up consider that certain offices are attached to the districts in which are located the six permanent offices? That is, do you refer to a district as the Bangor district, Calais district, Presque Isle district, the Portland district, the Auburn district and the Rockland district?

A. Yes, the inspector from those offices generally makes the temporary office in his district.

Q. Now, in the Bangor district since 1937 will you give the name of the places where you have these temporary offices?

A. In the Bangor district we have temporary offices at Newport, Dover-Foxcroft, Millinocket, Lincoln, Ellsworth, Bar Harbor and Houlton.

Q. And whether or not arrangements are made between your department and the department of the State Treasurer for the depositing

of money which you take in at those offices at designated depositories?

A. Yes, if there are any depositories outside of our regular depositories we consult the State Treasury office.

Q. And in the Bangor district what is the designated depository which handles the volume of both permanent and temporary offices in the district?

A. The Merrill Trust Company.

Q. In the Calais district what are the temporary offices?

A. Cherryfield, Machias, Lubec, and Eastport.

Q. What is the designated depository for funds in that district?

A. National Bank of Calais.

Q. Where are the temporary offices in the Presque Isle district?

A. In Fort Kent, Van Buren, Caribou, Island Falls, Houlton.

Q. And the name of the designated depository?

A. The North National Bank of Presque Isle.

Q. And in the Portland district where are the temporary offices?

A. Kittery, South Portland, Biddeford, Brunswick, Bridgton, Westbrook, Sanford, Wells.

Q. And what are the designated depositories in that district?

A. In Kittery, the Community Trust Company; in South Portland, Biddeford, Brunswick, Bridgton, Westbrook and Sanford at the Portland National Bank. In Wells the County Trust Company of York.

Q. And the temporary offices in the Auburn district?

A. Temporary branches at Bethel, Rumford, Farmington, Skowhegan and South Paris.

Q. And the designated depository for that district?

A. The First Auburn Trust Company in Auburn.

Q. And what are the temporary offices in the Rockland district?

A. Bath, Damariscotta, Belfast and Waterville.

Q. Are there two in Waterville?

A. We were there for two different periods this year.

Q. What is the designated depository there?

A. The Bath National Bank, the First National Bank at Damariscotta, the First National Bank of Belfast and the Federal Trust Company at Waterville.

Q. Have you any reports or statistics in your office which would indicate the volume of revenue collected in these districts last year?

A. I have the deposits made by

the branch offices on both a daily and a monthly basis.

Q. Is that compiled?

A. Yes.

Q. May I see it?

A. Certainly.

Q. And will you produce those statistics that I have asked you about in the morning so that I need not go through a lot of evidence to-night?

A. Yes.

Q. Now, whether or not you as Secretary of State have occasion to contact and confer with Mr. Smith as State Treasurer?

A. Very little. My contacts have been mostly with his Deputy.

Mr. GILLIN: Mr. Robie will be recalled tomorrow morning, Mr. Chairman, at which time I am hoping that he will present in compiled form statistics which will save us half an hour of going into them now. He may therefore be excused at this time.

The CHAIRMAN: Mr. Brown, do you wish to cross examine at this time?

Mr. BROWN: No, Mr. Chairman. There has been nothing disclosed as yet upon which I wish to cross examine.

Q. (Mr. Gillin resuming) Mr. Robie, I have one or two other questions. To your department comes a lot of protested checks from the State Treasury Department for collection, checks which were originally given to your various offices?

A. I wouldn't say a lot. There are quite a number.

Q. And what do you do with them when they come to your department?

A. We send them to the State Police with a request that they make an effort to collect them.

Q. Do you get reasonably satisfactory collection results from handling them in that way?

Mr. BROWN: I object. The law provides how these protested checks shall be handled, and I say that it is immaterial what this particular official did because he had no right to deal with them anyway.

Mr. GILLIN: Well, one of the charges against Mr. Smith is that he was lax in the collection of protested checks and it has been developed that this is the way which he took to collect protested checks and I am inquiring from the head of this department that handled a lot of those checks what the collection experience was by the handling of the matter in that way as bear-

ing on Mr. Smith's judgment and efficiency in handling them in this manner. If it is objected to I will withdraw it. Do you object to it?

Mr. BROWN: I withdraw the objection.

Mr. GILLIN: That is all, Mr. Robie, for the present.

The PRESIDENT OF THE SENATE: The Chair understands that the Senator from Aroostook, Senator Tompkins, moves that the Convention recess until 8:30 Eastern Standard Time, tomorrow morning. Is this the pleasure of the Convention?

Thereupon, the Convention recessed until 8:30 o'clock Eastern Standard Time, and the Senators retired to their chamber, amid the applause of the House, the members rising.

In the House

Called to order by the Speaker.

The SPEAKER: The question before the House is on the adoption of Committee Amendment "A" to H. P. 2259, L. D. 1226, Resolve providing for a Research Committee to Study the Administration of State Affairs.

Is the House ready for the question? All those in favor of the adoption of Committee Amendment "A" will say aye; those opposed no.

A viva voce vote being taken, Committee Amendment "A" was adopted; and on motion by Mr. Payson of Portland, under suspension of the rules, the Resolve was given its second reading as amended, passed to be engrossed and sent up for concurrence.

Report of a Committee

Ought to be Adopted

(Out of Order)

Mr. LaFleur from the Committee on Military Affairs on Memorial to the Honorable Senate and House of Representatives of the United States of America in Congress Assembled, Petitioning for Summary Preparedness Steps to be taken in Maine (H. P. 2258) reported "Ought to be adopted."

Report of the committee was accepted.

The SPEAKER: The question before the House is on the adoption of the Memorial. Is the House ready for the question? All those in favor of the adoption of Memorial to the Honorable Senate and House of

Representatives of the United States of America in Congress Assembled, Petitioning for Summary Preparedness Steps to be taken in Maine will say aye; those opposed no.

A viva voce vote being taken, the Memorial was adopted and sent up for concurrence.

Out of order and under suspension of the rules, it was

ORDERED, that Mr. Poulin of Rumford, be excused from attendance on Thursday because of urgent business in New Hampshire, and that Mr. Dow of Kennebunkport also be excused from attendance because of business out of the State.

(Out of order and under suspension of the rules)

First Reading of a Printed Bill

Bill "An Act to Incorporate the Town of Bridgewater School District" (H. P. 2267) (L. D. 1240)

The Bill had its two several readings and under suspension of the rules was given its third reading, passed to be engrossed and sent up for concurrence.

On motion by Mr. Varney of Berwick,

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