

ADJOURNED MEETING.

EVENING SESSION.

8.10 o'clock,
Council Chamber,
City Hall,
March 28th., 1924.

An adjourned special meeting of the City Council was held this Evening. At the above named hour there were present His Worship the Mayor, Aldermen Whitman, Sanford, Bissett, Gastonguay, H. W. Cameron, Guildford and Whelan.

8.10 o'clock.

Moved by Alderman Whitman, seconded by Alderman Bissett, that the time of meeting be extended until a quorum is present or until 8.30 o'clock. Motion passed.

8.30 o'clock.

Roll called, present the above named together with Aldermen Colwell, Schaffner, McDonald, O'Toole, Brysdale, Daw, Hubley and W. O. Cameron.

Mr. W. W. Foster, City Auditor, and his Counsel, Colonel J. L. Ralston, K. C., and also Mr. J. MacG. Stewart, acting as Counsel for the City, were also present.

The meeting was called pursuant to an adjournment from the 27th. instant to proceed with the further consideration of the report of the Finance Committee dated the 21st. of February 1924, recommending the dismissal from office of W. W. Foster, Esq., City Auditor.

✓ W. W. FOSTER, CITY AUDITOR.

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Mr. J. MacG. Stewart stated that the statement contained in the seventh paragraph of the report of the Finance Committee covering charges preferred against Mr Foster, could not be substantiated and suggested that same be deleted from the report.

Moved by Alderman Whitman, seconded by Alderman W. O. Cameron, that the report of the Finance Committee referred to, dated February 21st. 1924, recommending the dismissal of W. W. Foster, City Auditor, be amended by the deletion of Paragraph 7 of the charges in the report which reads as follows:-

"And whereas the Committee is further of opinion
"that in view of the foregoing facts the said
"City Auditor well knew that large sums of money
"belonging to the City of Halifax were being mis-
"appropriated."

Colonel Ralston objected, on behalf of his Client, to this Motion.

Motion put and passed unanimously - the following Aldermen being present and voting for the same:-

Alderman Colwell
Whitman
Sanford
Bissett
Gastonguay
Schaffner
H. W. Cameron
McDonald
Guildford
Whelan
O'Toole
Drysdale
Hubley
W. O. Cameron
Daw.

Colonel Ralston then proceeded with the examination of Mr. Hopewell, City Treasurer, who was asked to produce certain books in connection with the Reserve and Sinking Funds and the transfer of rates and taxes in his Department.

Alderman Finlay here arrives and takes his seat in

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the Council.

Mr. Hopewell is then cross examined by Mr. Stewart.

At 9.30 o'clock Alderman Power arrives and takes his seat.

After cross examination of the City Treasurer by Mr. Stewart, Colonel Ralston announced that his case was finished.

Mr. Stewart also stated that his case, for the Prosecution, was finished.

The Council is then addressed at length by Colonel Ralston on behalf of his Client, Mr. Foster, and by Mr. Stewart on behalf of the Finance Committee.

Read letter Alderman Munnis regretting his inability to be in attendance at the meeting owing to absence from the City and asking that his vote be paired with that of Alderman Schaffner on the question now before the meeting.

His Worship the Mayor stated that there was no provision in the rules of Procedure of the Council to deal with this matter and ordered that the letter be filed.

Acting on the advice of the Solicitors for the City, His Worship informed the Council that it would be necessary on account of the amendment to the Report, to amend the resolution adopting same.

Alderman Whitman submits the following resolution:-

× RESOLVED that the report of the Finance Committee dated the 21st. day of February A.D.1924, as amended by the deletion of Paragraph No. 7 of the charges in the report which reads as follows -

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"AND WHEREAS the Committee is further of opinion that in view of the foregoing facts the said City Auditor well knew that large sums of money belonging to the City of Halifax were being misappropriated",

be now adopted.

2. That W. W. Foster, City Auditor, be dismissed from the said office of City Auditor.
3. That such dismissal take effect forthwith.
4. That there be paid to the said W. W. Foster three months' salary in lieu of notice.

x

Moved by Alderman Whitman, seconded by Alderman W. O. Cameron, and passed, 12 voting for the same and 4 against it as follows:-

For the Motion:-

Against it:-

Alderman Whitman
Sanford
Bissett
Gastonguay
H.W. Cameron
McDonald
Guildford
Whelan
O'Toole
Drysdale
W.O. Cameron
Daw.

Alderman Colwell
Finlay
Schaffner
Hubley.

His Worship the Mayor declares the Resolution passed by a two third vote of the Council as required by Section 119 of the Charter of 1907 and that W. W. Foster is thereby dismissed from the office of City Auditor.

*W. W. Foster is
City Treasurer
His Worship the Mayor*

Moved by Alderman Whitman, seconded by Alderman Bissett, that this Council do now adjourn. Motion passed.

LIST OF HEADLINES.

W.W. Foster, City Auditor

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Council adjourned 12.45 o'clock, A. M.

H. S. Rhind
H. S. RHIND,
ASSISTANT CITY CLERK.

John Murphy
JOHN MURPHY,
MAYOR.

HALIFAX CITY COUNCIL.

FRIDAY, MARCH 28, 1924.

The Mayor called the Council to order at 8.30 P. M.

The Clerk called the roll.

THE MAYOR: Before proceeding Mr. Stewart, one of our Solicitors, desires to make a suggestion and recommendation to the council.

MR. STEWART: It is simply this: that the last recital in the report of the Finance Committee should in my opinion be deleted from the charges, that on Page 3, Par. 3, beginning "Whereas the Committee is further of the opinion...". Mr. Bell, His Worship and myself have conferred upon this and we are of the opinion that there is not evidence of that charge in the secondary sense of misappropriation, and that it is better it should be eliminated rather than that it should cause any misapprehension as to the real meaning, and the only way in which that could be changed is by amending the motion, that the report be adopted, omitting the last recital thereof.

ALD. WHITMAN: If Mr. Stewart advises that, I would move that the last recital be struck out of the charges; I move that Par. 7 be deleted.

ALD. W. O. CAMERON: seconded the Motion.

MR. RALSTON: I want to record myself as not consenting to that motion. The motion in effect is a subsequent motion made after a motion already before the council for the adoption of the report as a whole, and included in that report is this most serious of all the charges which is now, I understand, being abandoned, and still the recommendation stands that my client be dismissed from office; in other words, that the same punishment be meted out as be-

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fore - the punishment recommended before the charge was deleted. I do not consent, and want to record my objection to the motion.

MR. STEWART: I think it is only my learned Friend who considers that the gravest of the charges in the report. To my mind it is the least grave and always has been the least grave of all the charges; and, moreover, I think the Council is justified in passing the resolution for dismissal on any one of the other six charges; and, moreover, you can justify the action of council in my opinion in Court if you can establish any one of the other six.

THE MAYOR: The motion now before the council is still the original motion for the adoption of the report of the Finance Committee; the amendment is that this particular section, being Par. 3 of Page 3 of that report, be struck out. (The paragraph was then read by the Mayor.) This is the amendment to the motion now before council.

MR. RALSTON: And that is what I object to.

THE MAYOR: Let it be clear that the motion before the council is that the report be adopted; and the amendment is that the report be amended by striking out this particular paragraph.

THE AMENDMENT BEING PUT BY THE MAYOR, IT PASSED UNANIMOUSLY.

THE MAYOR: We will proceed with the discussion of the report. Mr. Ralston you asked to be permitted to continue the examination of Mr. Hopewell.

JAMES J. HOPEWELL, being recalled, was then further examined by Mr. Ralston.

Q Have you produced the cash book and transfer book for 1923-4.

A You have it there - the transfer book. They are here.

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Q. Have you the Minute Book here of the Trustees of the Sinking and Reserve funds?

Produced

Q. This is the only Minute Book of the Trustees?

A. That is the only one I know.

Q. And are these the statements referred to in the Minutes? (E-6, E-7 and E-8). Those are the statements in the hands of the City Treasurer and referred to in the Minutes of the meetings of July 16, 1909, March 7, 1910 and November 17, 1910.

A. Those are the copies of the ones that were mentioned there.

Q. I show you the transfer book at present in use; the initials in read "G" refers to what - in the right hand margin?

A. The signature of Miss Gowen, the acting auditing; that is her initial.

Q. Placed there after she checked the entry?

A. Yes.

Q. In reference to the Housing Commission funds, will you tell me what, if any, chequing account the Housing Commission had.

A. I had nothing whatsoever to do with the Housing Commission account beyond drawing the cheques for the statements that were remitted to me by Mr. Hayes and approved by McCoy in the Province Building.

Q. The monies of the Housing Commission were loaned by the Province?

A. Yes, on the bond of the city.

Q. And you simply drew cheques payable to persons to whom loans were being made?

A. I drew the amount from the Government that was covered by the statement submitted to me and I deposited that in

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the Housing Commission account in the Royal Bank, and I drew cheques against the names included in the statement and passed those cheques over to Mr. Hayes and my duties then ceased.

Q. If I were getting a loan from the Housing Commission the cheque which you drew would be payable directly to me?

A. It would be payable to you or your order.

Q. It would not go into the Housing Commission funds, into the funds administered by the Housing Commission?

A. I don't know.

Q. It could not if payable to me or my order unless it was endorsed by me first.

A. ~~It would not go into the Housing Commission funds.~~ Yes.

Q. Do you know of any funds that the Housing Commission had by way of a banking account?

A. It is only what I assume; I don't know of my own knowledge. The Housing Commission collected from the people to whom loans were made, monthly instalments, and deposited them in the bank account of their own.

Q. Were they deposited in the city bank account or one you had anything to do with?

A. No, the city had nothing to do with it.

Q. As a matter of fact, the Housing Commission have a fund out of which they cheque for administration expenses?

A. The city gave them a grant of \$4,000, I think it was the last year, and \$3,500, the year before, and I used to pay it to them quarterly.

Q. Paid to the Housing Commission?

A. Yes.

Q. \$1,000. a quarter?

A. Yess, and \$875.

Q. This account you speak of, and which you had nothing to do with, and in which you say collections were deposited,

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was that for the benefit of the Province?

A. It was supposed to be paid direct to the Provincial Cashier.

Q. And the bank account was the depository for that fund?

A. Yes.

Q. You had nothing to do with that at all?

A. No.

CROSS EXAMINED BY MR. STEWART.

Q. You said a moment ago to Mr. Ralston that the city had nothing to do with the Housing Commission's own account; by that you mean you as treasurer had nothing?

A. Certainly.

Q. Dealing with the reserve fund for a moment; can you tell me by reference to the Minute Book of the Trustees of the reserve and sinking funds, whether there are any Minutes authorizing the loaning of the funds, of the reserve fund, to any specified or particular years.

A. These are since 1922.

Q. But none before that?

A. I could find none before.

Q. You have examined the Minute book.

A. I examined it in response to Alderman Whitman's letter.

Q. But you could find no Minutes authorizing a loan to any particular year?

A. No.

Q. Can you tell me in what year the loans were made to the authorized years as they now appear.

A. As all this happened before my time the only way I can do it is by referring to the ledger.

BY THE MAYOR.

Q. You don't recall at the time the report was asked for whether you prepared a detailed report of the investment of that \$63,000 or \$65,000. _5_

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A. Certainly. (To Mr. Stewart) The question is how far do you want to go back; this fund originated in 1902 and the loans were made from that time on.

BY MR. STEWART.

Q. As it stands at present the earliest year to which any of the money is loaned is 1909.

A. The amount that stands charged against this year is \$13,090.

Q. In what year was that loan made?

A. The loan to 1909 started in April 24, 1911, with a sum of \$20,350. succeeded by another loan on November 21 of \$14,150; that is in 1911 also.

Q. Take the following year.

A. On April 19, 1912, a return of \$20,580. leaving on April 28, 1913, a balance of \$13,920.

Q. And it is the same at present or at 1923?

A. No; on April 3, 1914, a further loan or advance of \$4,500.

Q. To what year?

A. To 1909, which brought the balance on May 1, 1914, \$18,420; on June 9, cash was returned \$3,200; January 15, 1915, each returned \$500.; February 17, cash returned, \$150; October 23, 1914, cash returned \$1300.; so that the balce on April 30, 1915, was \$13,270.; and amounts omitted May 1, 1915, \$180.; and that was carried forward \$13,090; and on April 26, 1915, cash \$406.10; April 29 \$1514.10; May 31 \$904.82; October 15, \$850.; leaving on the 7th. June, 1916, a balance of \$10,419.09, and that amount on March 2nd. 1923, was repaid to the extent of \$6,522.29.

Q. Take the next year that appears as a debtor to the reserve fund, that is 1910.

A. On December 13, 1912, cash or advance \$4,415.75.

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Q. Is that the first date on which any money was loaned from the reserve fund to 1910?

A. That is as it is recorded here.

Q. That is all the information I want. Give us the date on which the first loan was made from the reserve fund to the 1910 account?

A. December 13, 1912.

Q. What is the year to which a loan was made from the reserve fund.

A. 1911.

Q. When was the first monies loaned to the 1911 account?

A. April 18, 1912, \$27,286.75.

Q. Was there any subsequent advance?

A. January 9, 1913, \$5,000.

Q. Is that the last?

A. Then there were repayments on January 15, 1915, \$8500., and February 17th. \$1000.

Q. What is the next year to which loans have been made from the Reserve fund?

A. Loans have been made since 1902.

Q. The next year after 1911 - were there any in 1912?

A. October 23, 1914, to loan \$1,921.

Q. That was the first loan to the year 1912?

A. That is the only loan, and returned on January 15th.

Q. Is there any loan to 1913?

A. August 20, 1915, \$1,814.97, and October 15, \$350.

Q. That is the first loan made from reserve fund to 1913?

A. Yes, as recorded here.

Q. Any loan to 1914?

A. January 15, 1915, \$11,221.88; February 17, 1,800.00.

Q. Any further advances?

A. On March 29, 1915, \$2,430; April 23, \$486.10; April 29, \$514.10; May 31, \$2,164.70; making a total of \$18,535.95.

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Q. Were any loans made to the year 1915 from the reserve Fund?

A. No.

Q. That is the last loan that was made from the reserve fund?

A. Yes.

Q. You were speaking the other night about the various bank accounts, and I understood you to say that you have one bank account for each year.

A. Yes.

Q. And that bank account continues so long as you owe to the bank any part of the borrowings on account of that year?

A. No, the bank account continues so long as there are any taxes to come in; we cannot close the year until that is done, consequently you have to keep the bank book.

Q. I think you told us into that bank account goes not only taxes for that year, but also the proceeds of the sale of all city securities, of that year, - the abutters share, - in fact all moneys that come into the city for use during that year?

A. Except water, or trust accounts.

Q. The principal revenue I suppose is from taxes?

A. Not always.

Q. Except in cases where there is capital borrowing taxes are by far the largest portion?

A. That is it.

Q. If money comes in from the sale of securities that is paid out for the particular purpose for which the securities were flated, is it not?

A. I could not say that.

Q. You have an account covering these securities, each item for which the securities are sold?

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A. We credit each account with the amount that has been borrowed for it.

Q. And charge against that account all the outgoing properly chargeable to it?

A. Yes.

Q. The revenue or moneys received for that account are specially earmarked and you see to it that these moneys are not disbursed, do you not?

A. No.

Q. You never take care that the amount left in the bank is sufficient to cover the purposes for which the particular securities were issued?

A. That would be impossible under the present system.

Q. Could you not always deduct from the total proceeds of the sale of securities the total amount you had expended on the particular account leaving a balance - cannot you at any moment determine whether that amount is in the bank or not?

A. No.

Q. It would be possible to do it?

A. I can give you an instance of it, if you listen to me: if we could collect 100% of the taxes, every year on the 30th. of April or 1st. of May, or shortly afterwards, when all the bills against the different appropriations were paid, I could then draw a cheque for the balances that were due to capital unexpended accounts; but inasmuch as the taxes are never collected 100% and as all the services have been paid their running expenses, it follows that the money must come from some place. Now, the only place it can come from will be from whatever moneys are to the credit of that year in the bank, whether from capital account, unexpended balances, or money in

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previous years, borrowed but not used.

Q. Is it not a fact that just to cover the first part of the year - that is, from May 1st. to July 1st., say, the city invariably borrows from the bank 30% of the taxes payable for that year?

A. Yes.

Q. And that is borrowed for the purpose of defraying these very expenses to which you refer?

A. Yes.

Q. So it is not necessary for the city to collect 100% taxes in order to meet its estimates, and that all it needs to collect is 70%, is it not? All it needs to collect in the year - within the financial year?

A. I will give you an instance.

BY THE MAYOR:

Q. If you had in hand an overdraft of 30%, and things should so work out that you collect 70% of the total, that gives you 100% of your requirements - does it not?

A. Yes, - if you collect 70%.

Q. Mr. Stewart assumed you did collect the 70% and you had 30% overdraft, you would have all your estimated requirements.

A. Yes, that would be equivalent to collecting 100%.

Q. Assuming you have got in 70% and have 30% overdraft, that gives you everything it is possible to get.

A. If we had 70%.

Q. That is all Mr. Stewart said.

MR. RALSTON: I will admit that.

BY MR. STEWART.

Q. If you collect 70% and get 30% from the bank, and still you have not collected 100% of the taxes for the year.

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A. No.

Q. The practice as regards the bank is that the borrowing is not paid back to the bank until it can be paid back in toto.

A. That is true.

Q. You don't pay back by instalments?

A. The bank will not accept it.

Q. Therefore at the end of any civic financial year we can expect to find a considerable balance to the credit of any year, to the credit of that year?

A. We can not.

Q. Why not?

A. Well -

Q. Is it because the taxes are not collected?

A. That is it.

Q. Because you have not collected 70%?

A. Yes.

Q. And that is the only reason?

A. That is the only reason.

Q. At the end of the following year we might expect to find the previous year with a considerable balance at credit owing to collections during the subsequent year, might we not?

A. We would find some.

Q. In every case you will find a considerable balance at the year following the close of the particular financial year?

A. No, you might not.

Q. Can you recollect any cases?

A. Yes, I can give you an instance of 1922-23; the only sum we have to the credit of that account is \$35,000., and when \$22,500. was returned to the reserve fund that had been loaned it, and a further subsequent amount that

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had been loaned it different years outside the reserve fund, there would be no balance.

Q. When there was paid out of the 1922-23 year the amount borrowed from the reserve fund and that amounts borrowed from other years there would be no balance?

A. To make my meaning clear -

Q. Can you answer that?

A. I will give the figures and that is the best answer I can give you: On April 30, 1923, there was \$728,315.83 uncollected according to Price Waterhouse & Co. report, of the taxes for that year, and our bank loan against that was \$562,500; the estimates for that year for the different services were all paid; and still there was \$728,000, or the difference between \$562,000. bank loan, and \$728,000 uncollected taxes had been utilised, or must have been utilized from capital expenditure. There was no other way to get at it.

Q. What is the standing to-day of 1922-23?

A. On the 22nd. March, which is the last statement I have made, uncollected taxes is \$513,537; cash balance \$35,958; total \$549,496., against \$562,500. that was loaned from the bank; a deficit practically of \$13,000.

Q. And the cash on hand is what?

A. \$35,958.

Q. That is the only instance you can recall, is it?

A. I have a whole string of them from 1908 up.

Q. Where a year, after April 30th. of the following year, there was no amount at the credit of the year.

A. 1909-10 the uncollected taxes according to Price, Waterhouse & Co. \$9,917; and amount collected since that date \$852. (?)

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Q. You are not answering the question; my question is, take any financial year in particular, take the bank account for that year, - has there not been a substantial sum at the credit of that year at the expiration of one year after the termination of that year; for instance, when speaking of 1910, my question has reference to the state of the account for 1910 on April 30th. 1911.

A. Of course - that is a statement I have taken from Price, Waterhouse's account, and brought it up to date, or March 22nd.

Q. That is merely a statement of uncollected taxes, is it not?

BY THE MAYOR:

Q. For the year 1921-22, closing on April 30, 1922, would you say that you have an example there of any year where twelve months after April 30th. at the closing of that year, we had not collected 71% of that year's total assessment; if we collected 1% over the 70%, inasmuch as you have retired no portion of the 30% overdraft - that answers the question - have you any example where twelve months after the closing of the financial year you can quote an example where there is 30% outstanding; because if there is a fraction over 70% collected Mr. Stewart's question is answered; where 31% remains still uncollected?

A. There is no example here; all I can give you is the amount of taxes Price Waterhouse shows on the 30th. April 1923.

Q. On an average we get around the discount date approximately 50% of the taxes, roughly?

A. Yes.

Q. Disregard the July discount date and the entire balance of that financial year, and go ahead twelve months, April 30, 1922, to April 30, 1923, and say whether or not 1% in

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excess of our requirements and 30% overdraft has not come in; I cannot recall anything I have ever seen that would bear out that situation; remember, if you were discussing the end of the financial year itself that might be possible, because today with only a couple of months to go we have 60%, approximately 60% in, and 40% outstanding, and overdraft of 30%, which leaves us with 10% notwithstanding your overdraft to take care of; we still require \$180,000. to complete the balance of this year. Notwithstanding our full 30% overdraft and the collection of 60% of the taxes.

A. According to my statement, instead of \$180,000. that we require to complete our work to the 30th. April this year, it is \$252,000.

Q. It would be one-twelfth of your total assessment roughly.

A. Our total is \$2,044,000.

Q. It would be 60 in, plus 30, leaves 10% of the total of your gross requirements; we know there is \$800,000. outstanding today, which is approximately 40% of the total; you have 30 from the bank, plus 60 in, leaves a difference of 10; does it not?

A. That way of figuring is not according to my mind the exact way.

Q. In a general way, we have 60% of the total collections, and you have received from the bank 30% of the total, no matter what way you take it you have 90% of the gross, which leaves 10% that you have not in your hand or the power to get.

A. To come down to brass tacks, according to my idea, it is this: We have \$852,923. of an uncollected balance of taxes for this year; we have \$5,447.69 in the bank at the time the statement is made up, to our credit in the Royal

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Bank, which gives a total of \$858,371.68; against which we have borrowed from the bank \$605,950.; so that in order to carry on to the 30th. April, irrespective of the 30% we have from the bank, we want \$252,420. odd dollars.

Q. Our total assessment was something in the neighbourhood of \$1,875,000.

A. \$2,044,000. taking in the Highway Tax.

Q. And that is exactly 10%?

A. It is nearer 12.

Q. The answer Mr. Stewart wants is, can you cite any example where 12 months after the closing of any financial year you have not 71% of your gross taxes in?

ALDERMAN DAW. I think that seems to be a very simple question to answer.

THE MAYOR. I think it should ought to be.

A. You can take any year you wish, 1921, 1920, 1919, 1918 and you will find anywhere from \$519,000. down to \$83,000. of uncollected taxes to-day. Well, then, if these taxes are uncollected for these years, and we have paid the running expenses of the city according to our estimates for those years, then we must have paid those running expenses out of capital account.

Q. Or out of the amount you borrowed from the bank.

A. This is exclusive of the amount borrowed from the bank.

Q. In what year is there over \$500,000 uncollected taxes in addition to the borrowing from the bank for that year?

A. Take 1920-21, the total amount of uncollected taxes at the present date is \$186,157.11; we have to our credit \$311,261.37, which makes the sum total \$497,417.48; and we owe the Bank \$450.00 out of that; the balance \$47,000. is not to my mind taxes; it is an amount due capital and an

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amount that we cannot pay over to capital until we get that \$186,000 in of uncollected taxes.

Q. And you borrowed that capital from the year 1920-21.

A. It may be 1920-21, 1919-20, it might be 1919 or 18.

Q. Carried along as unexpended balances?

A. Yes.

Q. To go back to the original question, there is no case that you know of where the taxes for any year remained uncollected to the extent of 30% one year after the close of that year.

MR. RALSTON. I submit we will have to have the accounts and figure out if it is 30%; somebody must figure out if it is 30%.

A. All I have on the statement is unexpended tax collections according to Price, Waterhouse's account.

BY MR. STEWART.

Q. Those are not your own figures?

A. Since that date they are; I have brought it up to date.

Q. I understood you to say to Col. Ralston on Monday night, that into the year's account goes the receipts from permanent pavement abutters?

A. Yes.

Q. What becomes of that money?

A. After a certain period when it reaches the amount of - any considerable amount - either six months or may be twelve months, that amount is paid into the bank to the credit of the permanent pavement account that we borrowed from the bank; the same is true of the sidewalks and curbs and gutters, and street gradings.

Q. How regularly are these payments made into the separate

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bank accounts.

A. I would say irregularly.

Q. Is there any particular amount to be on hand before it is paid into the other account?

A. No - a question of expediency.

Q. When the particular bank account requires the deposit of further sums you transfer them from the general account to that particular account?

A. No, because we borrow the amount for the pavement abutters from the bank; we open an account showing how much money we borrow from the bank, and also an account at the Royal Bank showing the amount; we credit the abutters' account as the moneys are collected by the City Collector, and when we pay over any amount to the Royal Bank, then we charge the Royal Bank.

Q. It is really a repayment of the amount of their loan?

A. Yes.

Q. These are paid back within the year?

A. Since I have taken them over they have been.

Q. Take the item Taxes in Arrears, that goes into each year's account, what becomes of that fund?

A. We open an account called Interest on Rates; we charge up against that account the discounts that are allowed for taxes paid up to the 31st. July; it may amount to anywhere, according to the estimate, from eighteen to twenty thousand. From the first of July to the thirtieth of September no interest is charged on taxes; after that date interest at the rate of 6% is charged until this year when 7% was charged, and that money is returned by the collector to me with the other rates and taxes and goes to the credit of that interest account.

Q. A separate bank account?

A. No.

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Q. What becomes of it ultimately?

A. It is in the year's accounts and forms part of the un-expended balances, if any; it is adverse for the first 1½ years, after that the 2% discount is generally wiped out and it shows on the other side.

Q. And the difference between the rate of interest you receive from the Royal Bank and the rate you pay the Royal, is that paid out of this particular account?

A. No. We have what is called a current interest account, in which the bank interest is credited or charged as the case may be; because in the first part of the year when we have the 30% and when we have the taxes collectable until the 31st. July, we generally have a surplus and that goes to the credit of interest until it is wiped out.

Q. I understood you to say the other night that the city has always paid the bank in part out of the revenues of another year.

A. What I say is, that the city has to pay the bank whenever it can get the money to wipe off the account; the rule that was in operation with the bank is this: if I have to go to the bank to borrow 30% for the incoming years taxes, the consideration on which that was given was to the effect I had to wipe out the oldest year; as the taxes were not collectable, or not collected frequently for that year, the money had to be borrowed from some other year, and the way that was borrowed would be something in this position. In 1919-20 there were uncollected taxes of \$125,961.35; we had a credit in the bank of \$165,174. which made our total of \$292,139, against which we owed the Bank \$250,000; it was therefore considered that the difference, the \$43,000., was the city's money, and as long as the bank was protected to the extent of their amount, we felt at liberty to use that money to pay off the last year's taxes to get our

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accomodation for the ensuing year.

Q. I don't think that was the question I asked. Was the only necessity the fact that the bank was pressing you to do this?

A. The rule was that we had to wipe off -

Q. What rule was this? Who promulgated that rule?

A. I found it to be the custom when I came into the treasurer's office.

Q. Was the Bank ever notified the city of any such arrangement or stipulation?

A. The bank has told me they expected to have one year wiped off before we borrowed another.

Q. That has not been the custom in the past; don't you today owe the bank for four years?

A. For five years.

Q. So the rule has been more honoured by breach than by observance?

A. No.

Q. You told us the rule was you had to wipe out one year before you could borrow the next.

MR. RALSTON. He said another.

A. I want to say this -

Q. Are you aware of the bank having stipulated for that with the city, or is this a private insistence by the bank manager when dealing with you?

A. I would not say it was a private insistence with the manager, because when I went to negotiate the money the question was, "are you going to pay off one year?"

Q. Did he say I wont loan you more money unless you do?

A. He didn't say it, but the inference was plain.

D. Do you think it was plain that they would refuse if you didn't

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A. It was to me.

Q. I feel I must press you on that because I understand it is not the bank's attitude at all; you can state positively that the bank manager never refused a loan except on those terms?

A. Because there was no occasion; we always met him that way; these returns were always submitted to him.

Q. And you simply paid him in anticipation of his refusal.

A. No, because the question was put straight, are you going to pay off the last year.

Q. And you always said, yes.

A. Certainly.

Q. You were aware of the fact that you were using moneys standing to the credit of one year for purposes other than the purposes of that year in so doing?

A. I have given you an answer to that in the early part of the evening, I think. If the taxes for each year, including the 30% -

Q. That is not the answer to my question -

MR. RALSTON. Let him finish.

Q. Confine yourself to answering questions and we will get along more rapidly.

MR. RALSTON. He is entitled to give an explanation if he likes to do so.

THE MAYOR. I personally do not think the answer of the City Treasurer is the answer to the question that was put to him.

Q. When you took a cheque to the mayor to sign in order to pay the bank, did you explain to the mayor that moneys were being drawn from the account of one year to pay an indebted-

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ness ultimately payable out of the account of another year?

A. I asked you to let me make an explanation and you don't seem to want me to do it.

Q. I want you to make every explanation, but answer the question first and then give the explanation.

A. Whenever we went to get the mayor to sign these cheques an explanation was made to him of what it was proposed to do; some times the auditor would go with me, or else on other occasions he would sign the statement; we had to prepare a statement showing the disposition of the unpaid taxes, cash on hand and what we proposed to do; we had to satisfy the bank manager that the moneys that we were taking from these accounts in order to apply them to these other years did not belong to the taxes of that year, that there were enough uncollected taxes and cash in bank to warrant us taking that money.

Q. And these accounts were explained to the Mayor?

A. These accounts were explained to the mayor.

Q. Or just put before him and ask him to sign the cheques?

A. They were put before him; we had to take the same statement as we showed to the mayor to the bank manager.

Q. You went into it a great deal more carefully with the bank manager.

A. Not a bit.

Q. Did you know yourself that moneys to the credit of one year were being applied to the payment of an amount borrowed from the bank for another? Moneys to the credit of one year were being used to pay off a loan made by the bank against the taxes of another year.

A. That involves a question that is more or less intricate; in this way, we might - we will take the account of 1918-19; we had to pay that amount off; we had so much cash on hand,

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so much uncollected taxes; and we had to make up the difference between what we borrowed from the bank and the cash on hand. Now, that year may have owed the year that we were borrowing from probably twice the amount we were taking from it; you will see by the statements in the annual report, due 1918-19 \$150,000., due by 1919-20 \$200,000.; as I stated in the early part of the evening, if I - if the taxes were collected and I could balance the year at the end of the period I would be able to draw a cheque against any one year's account and withdraw the unexpended capital, but if I cannot do that I have to carry the balance to the next year and make an entry in my book showing 1919 owes 1918 the amount that it is short.

Q. When was the first time in your experience that the account of any one year owed money to the account of more than one other year.

A. I have here a statement prepared by the late Treasurer up to April 30, 1915. I find 1910 that 1911 owed 1910 \$13,525. I find in 1911 account that there was due by 1910-11, \$13,000., and 1912 account was owing \$30,314. I find in 1912-13 account that there was due by 1911-12, \$39,000; and there was due 1913-14, \$54,000.; I find in 1913-14 account that there was due by the Health Board account \$13,724, by 1912 account \$94,000., and due by 1914-15 \$154,503. I find 1914-15 - that 1915-16 account owed 1914-15 \$142,719. They owed the Water Department \$10,000.; reserve fund \$16,000.; and I find that 1913-14 owed \$154,503. and so on, it goes right up to the present time, each year involved in the next year.

Q. But is there not a very great difference in the last three or four years; it is not a fact that each year owed the previous year and was the creditor to the subsequent year?

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A. It is the same now.

Q. How was the bank account of 1920 paid off, by borrowing from what source?

A. It has not been paid off at all.

Q. 1917-18?

A. It has been paid off.

Q. How?

A. It was paid off -

Q. Out of what year's moneys - accounts?

A. It was paid off out of the 1915 account \$16,000.; 1919 \$74,500; 1920 \$44,500.

Q. So in that particular instance 1917-18 owes three years? Something to 1918-19, 1919-20 and 1920-21?

A. Yes.

Q. That is very different, is it not, from the years 1910, 1911, 1912, that you were referring to, that each year had a slight overhang into the next; here is one account that owes each of three subsequent years large sums of money?

A. Yes.

Q. When did that state of affairs come about, and that is all my question was originally aimed at; when did the practice grow up whereby any year owed funds to two or more other years? Not one year a little overhanging balance.

A. I give you 1916-17; there were transfers from 1920 account \$49,533., and from 1908-1909 to 1915 \$64,000.

Q. That is the first year so far as you know where there were borrowings from years other than the one immediately preceding or immediately following?

A. No, because there were other borrowings during the year, from these accounts that had any credit balance to tide over financial difficulties at the time.

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Q. 1916-17 is the only year in which any year ending up a debtor year to two or more other years?

A. If you look up the annual reports you will see where these things are credited to these different years where they were borrowed and were not returned probably a year or two years afterwards.

Q. Prior to 1916?

A. Prior to 1916.

Q. Which year for example?

A. I have here a copy of 1913-14, there was a balance transferred from 1913; in 1914-15 I find a balance transferred from 1913; and in 1915-16 I find a balance transferred from 1912-13.

Q. That is in 1915-16 was the first year that borrowed from a year other than the succeeding year.

A. No, you must remember this, that we are talking now - the entries you are talking about are in reference to the end of the year when we had to make a new borrowing from the bank and had to retire the old year, or the oldest year, the year furthest back. But there were some borrowings had to be made during the year the same as today, transferring money from the reserve fund this year; the only difference between the two was - it was done always with the sanction of the mayor.

Q. What do you mean by the sanction of the mayor; you merely obtained his signature to the cheque?

A. And his consent to doing that.

Q. Am I to understand no borrowing was ever made from any year without the consent of the mayor for that year.

A. Most emphatically, with the full knowledge of the circumstances.

Q. And the same is true of Mayor Murphy?

A. The same is true with Mayor Murphy.

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BY THE MAYOR.

Q. When you presented to me a year ago two or more cheques, perhaps one cheque, and asked me to sign it, did I sign it for these transfers, or did I decline?

A. You didn't sign it last year.

Q. I declined and said I would not be a party to any such manipulation?

A. You did.

Q. During the first year - my first year as mayor, perhaps within two weeks of my taking office - the date is easily get-at-able from your records, you came to me with cheques for a certain large amount running into a considerable amount; you and I have discussed it, have we not, and I stated my recollection of the incident was that you told me this is the usual practice in signing these cheques; if I am not mistaken they must have run perhaps in the neighborhood of \$300,000. or more, one amount was \$135,000.

A. I may set you right on that at once: the amount that we have been speaking about, and that all the talk is about, is the one you have reference to, the one wherein the three years was taken.

Q. Let me ask you one question, which will permit of only one answer: in order to put you in a position to explain to the mayor and make clear to your bank just what this cheque involved you would have yourself to know the various sources from which you would make up, whether from one or more years?

A. Absolutely.

Q. And you would have to have personal knowledge as to just the particular sources that you would have to tap to make up the amount to take care of that year you are

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endeavouring to clear up; otherwise you could not explain it to the mayor or go to the bank to make it clear; you could not explain to the mayor because you would bring in a slip showing how the amount was being made up and where the transfers were being taken from.

A. If you will allow me five minutes I will bring up the original documents.

Q. It wont be necessary; before you could draw a cheque you would personally have to know the source from which the moneys were to come?

A. True.

Q. That is the direct question Mr. Stewart put to you as to whether you yourself would know how the make up of the cheque was arrived at and what channels you proposed to get money from; that is the question you were asked.

A. I can show the original document at once.

Q. The question is, you would have yourself - you would require to have personal knowledge before you could draw a cheque and explain to the mayor how you were making it up?

A. Yes.

Q. This is all that is necessary.

BY MR. STEWART.

Q. What documents did you have showing the disposition of the reserve fund, the years to which the fund was loaned?

A. Only the sinking fund ledger.

Q. And the sinking fund Minute Book?

A. No, I have already answered that there is nothing in the Minute Book in regard to these loans.

Q. You had no documentary security covering the loans?

A. None were ever handed to me and as far as I know none are in existence.

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Q. I find on pages 33 and 34 of the Annual Report for 1914-15 a statement of sinking funds; we find in 1914-15 the amount of the reserve fund was how much?

A. \$65,376.50.

Q. If you turn to the following page you will find what statement made at the top of the page?

A. The securities of our sinking, reserve and other funds are in the custody of our treasurer and by him kept in the vaults of the Royal Bank.

Q. That is part of the city auditor's report for that year.

A. Yes.

Q. Were there any securities in your custody covering the reserve fund which were on deposit in the bank?

A. There are no securities in the reserve fund and never have been.

Q. In the year 1914-15 did you make any report as to the reserve fund?

A. Yes.

Q. Look up the year 1917-18.

A. It seems to have been omitted or was not copied from my copy.

Q. I place in your hands - 1915-16 was your first report?

A. 1917-18.

Q. That is the one in your hands?

A. Yes.

Q. I put in your hands the remaining four reports.-

MR. RALSTON. I understand my learned Friend is endeavouring to have Mr. Hopewell go over this book and show the reserve fund is not there; if my learned Friend has looked and it is not there, I will admit it; he says he has looked.

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MR. STEWART. My learned Friend must not make arguments in the course of my examination.

Q. In the year 1911-12 - I pass you the treasurer's report on 1910-11 and on page 95 you will find the way the reserve fund is dealt with in the old reports.

A. You will find in 1918-19 under the auditor's statement of the reserve fund -

Q. I am asking in your report.

A. As I have said before, it was never altered from the time I came in until 1922-23.

Q. In the auditor's report it is only the total amount and not the years to which it is loaned, in the auditor's report of 1918-19.

A. It was the gross amount which is the same amount as 1915.

Q. As a matter of fact, the items making up the loans to the various years out of the reserve fund have not appeared in the annual report since 1914-15, or since you became treasurer?

A. I could not say off hand now.

Q. It is to verify that I place the books in your hands.

MR. RALSTON. If my learned Friend says he looked and they are not there, I admit it.

MR. STEWART. I will say I looked and could not find them.

MR. RALSTON: I take my learned Friend's statement; I don't propose to look.

Q. I think you mentioned to Col. Ralston the last evening we met that a practise had grown up that where the market was not suitable for the sale of bonds for any specific purpose you used the regular account for funding the obligations temporarily, for defraying the obligations temporarily?

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A. At the request of the higher officials.

Q. Is it not a fact that all these bonds are authorized by special legislation?

A. Yes.

Q. And that the amount of the borrowings on these bonds can be borrowed from the bank upon deposit of the securities until the time for sale arrives?

A. That authority was granted in the time of Mr. John McKeen, of the Board of Control - about 1916-17.

Q. And since that time you have borrowed in anticipation of the sale of the bonds.

A. We have.

Q. On every occasion as far as you recollect?

A. Not on every occasion; it altogether depends on the state of the finances, these loans are generally supposed to be placed on the market around May or June; about that time we have the 30% of the taxes in; the big amount of the taxes are in, and we generally have anywhere from \$750,000. to \$1,000,000. to the credit; they want a certain amount of money; the market is considered by the financial experts as not being in a good position to make our borrowings; we have that money in the bank, on which we are deriving interest at 4%; if we were to go to the bank to borrow, we will assume we wanted \$400,000., if we were to go to the bank and ask them to lend us \$400,000. they would probably charge us 6%; if we put that money into current account until it was used the bank would allow us 4% and we would be losing 2%, and rather than borrow money, having such a large credit as we would have in the bank, I would be told there was no necessity to float the bonds until later in the year and to use our funds in the meantime.

Q. The current account was never crippled by defraying

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capital expenditures out of current account temporarily?

A. Never crippled, because when the bank account was getting dangerously low then the loans would be made.

Q. Or securities marketed?

A. Yes.

Q. It was only when there was lots of money in the account you defrayed capital expenditures temporarily out of the current account?

A. Yes.

Q. So that didn't cause any hardship to the year's account.

A. No, it was an advantage to it.

Q. I suppose there was no case in which capital expenditure was made in anticipation of the sale of bonds or anticipation of a pledge of the bonds, that the bonds were not marketed or the loan made against these bonds within the financial year; the securities were always marketed or the loan was made against them by the bank within the financial year; the securities were always marketed or the loan was made against them by the bank within the financial year that the capital expenditures were made?

A. Not always.

Q. Can you give us an instance?

A. You can go back to the time the council -

Q. Since we got the privilege in 1916-17.

MR. RALSTON. Let him answer.

Q. I am restricting it so that it will not be irrelevant entirely; since 1916-17.

A. You can go back until the council rebelled and walked out and left the Board of Control in charge, 1918-19, I think. In that year they had no council and the Board of Control could not, as I understand it, could not legally

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borrow any money; they had heavy contracts in operation, one with the Cook Construction Co., completing the North West Arm sewer; the consequence was the Board of Control, I wont say ordered, but carried on the work and the money had to be financed and we wound up that year's accounts by a deficit of \$101,000, if I remember, in the sewer account.

Q. That was owing to the extraordinary condition that arose when the council was on strike?

A. Yes.

Q. That is the only year you can think of in which the securities were not marketed or the loan made against the securities within the current year in which the capital expenditures were made?

A. I cannot just recall any other at the present moment but I think there was.

Q. You cannot recall any?

A. I am almost sure there were.

Q. Identify the various annual reports from 1910-11 to date.

MR. RALSTON. I admit those.

BY MR. RALSTON.

Q. Was there any method of earmarking moneys in this general yearly account?

A. None whatever except the state of the accounts as recorded in the ledger.

Q. You could not say certain balances remaining at your credit in the bank today say for \$100,000. was taxes or capital on bonds or abutters payments or any other certain amounts?

A. You could not.

Q. And there was no method whereby that was done; the only

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thing is you kept this hodge podge account and kept the ledger showing how much of that amount belonged to each of these items.

A. Yes.

Q. You were asked with regard to whether after the end of a current year there was ever an occasion when more than 30% of the taxes remained uncollected, and it was suggested that was an easy question to answer; you have to take the total amount of uncollected taxes and the total assessed for the year and estimate the percentage the one bears to the other?

A. That is the only correct way to do it.

Q. Take 1922-23, that you were referring to; what was the total amount of taxes estimated or assessed?

A. I have not got it here.

Q. 1920-21.

A. I have none of those years; the estimated taxes for 1920-21 was \$1,483,605.

Q. What was uncollected on April 30, 1922, a year after?

A. This statement I have is taken from Price Waterhouse's report until April 30, 1923.

Q. You have no statement for 1922?

A. On that date the amount was \$234,158., nearly three years after.

BY THE MAYOR.

Q. It is exactly two years after the closing of the financial year.

A. Yes.

Q. Out of \$1,483,605?

A. Yes, nearly 17%.

BY MR. RALSTON.

Q - What was the balance of uncollected taxes on April 30,

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1923, of the 1922-23 taxes?

A. \$852,923.94.

Q. What is the balance of taxes uncollected for the year 1922-23 on April 30, 1923 (?)

A. \$728,315.83.

Q. Have you anything from which you can give the total taxes estimated for that year?

A. No; speaking from memory, \$1,971,000.

Q. Speaking from your knowledge of mental arithmetic, would you say that was more than 30%?

A. That is over 40%.

Q. You told us that your practice was when transfers were to be made from one year to another for the purpose of repaying bank borrowings that you went to the mayor with a statement?

A. Yes.

Q. What particulars did that statement show?

A. That statement gave the amount of uncollected taxes, amount of highway taxes uncollected, the amount of interest that remained unbalanced.

Q. All for the current year?

A. For the year that we would be going to pay off; and the amount of cash in bank to our credit for that year, and if that balance showed we had say \$500,000. assets and we owed the bank \$450,000. that \$50,000. represented capital, unexpended capital that belonged either to the previous year or the next year, or it might be to two or three years.

Q. Because it might have been borrowed from some other year before taxes were collected?

A. Yes.

Q. And that was shown in the statement?

A. Yes.

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Q. Was there also shown in the statement the financial condition of the year from which you proposed to borrow?

A. Oh, yes.

Q. So the mayor had before him the full statement of the financial condition of the year which needed money and also the financial condition of the year from which borrowings were proposed to be made?

A. Yes.

Q. Have you any cheques showing these borrowings, amounts transferred to these borrowings?

A. I was not asked to look for any.

Q. Were you asked to look for any cheques showing transfers from one year to another?

A. I was asked to look for reserve fund cheques.

Q. Were you asked to look for cheques showing transfers from one year to another.

A. No.

Q. Have you any reserve fund cheques?

A. Yes; both dated April 3, 1914, two cheques, \$5,500. payable to the reserve fund out of the 1908 account; signed by the treasurer, Mr. Brown, and countersigned by the Mayor F. P. Bligh. (E/9); another one dated April 3, 1914, for \$3,200. out of the 1907 account signed by Mr. Brown, the treasurer, and it appears to be signed by the then mayor, now Mr. Justice Chisholm, but that is marked out and F. B. Bligh's name appears. (E/10)

Q. Is that the time the change would be taking place?

A. Yes.

BY THE MAYOR.

Q. Would it not be necessary in that instance to hold the cheque over; Mr. Bligh could not sign a cheque if he only came into office on the 28th. April.

Q.

BY MR. RALSTON

Q There is some explanation on both signatures.

THE MAYOR :: The man who succeeded Mayor Chisholm ,Could not have signed that cheque on April 4th perhaps it is the deputy Mayor.

Q. And another cheque dated November 21, 1921, out of the 1907 account, signed by Mr. Brown, \$5,900, countersigned by the then mayor, now Mr. Justice Chisholm (E/11) payable to the reserve fund. Cheque dated June 9th, 1914, out of the 1908 account for \$1,000 signed by Mr. Brown, the treasurer, payable to the reserve fund, and countersigned by Mayor Bligh (E/12) also cheque dated June 9th, 1914, \$800. payable out of the 1907 account, payable to the reserve fund, countersigned F.P. Bligh (E/13) would these cheques be deposited into the reserve fund account or go to any other year?

A. The Procedure that was adopted as far as I could see in looking over the accounts, they passed immediately to the account that was collated: there were only book entries.

Q. The cheque was deposited directly to the year that was going to borrow that money again out of the reserve fund; you refer to the sinking fund, ledger, Page 56, showing these entries; take the one example, 1911, cheque out of 1907 \$5,900 would not be deposited in the reserve fund and then loaned by that to another year, but go direct?

A. To save drawing cheques.

Q. But an entry would appear in the books showing the course the cheque took?

A. Yes.

Q. A question was asked by Mr. Stewart, whether or not you know that cheques were being drawn against various years other than the year in connection with which the loan was desired for the purpose of repaying the bank loans:

were cheques being drawn from the funds of another years for the purpose of paying the bank loan in the particular year which you wanted to fix up, funds from Capital?

A. I knew funds from Capital were because it could not be otherwise because the taxes were not collected.

Q. Did you know cheques were being drawn against accounts of other years for the purpose of repaying bank loans of another year you were endeavouring to finance?

A. Certainly.

Q. That was part of the system you followed when you made up this statement to go to the Mayor?

A. That is the only way it might be done.

Q. And you explained to the mayor that was the object?

A. Always.

Q. Was there any secrecy?

A. Not that I know of; it was done open and above board.

Q. And everybody was fully informed?

A. The Mayor for the time and the auditor and myself.

Q. Was it fully explained in this statement and in the interviews that the funds of these years which were being drawn on were being used for the purpose of repaying bank loans of other years?

A. Certainly.

CROSS EXAMINATION-MR. HOPEWELL

Mayor Mr. Hopewell in reply to a question asked by Colonel Ralston you stated that yourself, the City Auditor and the Mayor, would know of all the circumstances surrounding the proposed withdrawal of these moneys to be applied to that particular back year. Do you recall whether on both occasions you came to me the City Auditor was there, present?

A. The City Auditor was present on the only one occasion that I went to you to get the money transferred in order to pay off the back year.

Q. The only one occasion? Do you say you only came to me on one occasion for that purpose?

A. I only came to you on one occasion to ask you to sign cheques to release a year's loan.

Q. What was the purpose of last year's cheques- the transfer that you proposed last year, on the strength of my refusal making it necessary to clean up this emergency money of the Finance Committee- was that purely independent of the previous one?

A. No.

Q. On one occasion that you came to me the City Auditor was present, and on that other occasion the City Auditor was not present?

A. The City Auditor was not present, but the statement that was submitted to you was signed by the City Auditor and certified as correct.

Q. Yes,- Did I understand you, Mr. Hopewell, to make this further definite statement, that you knew and that you would have made clear to any Mayor that the moneys so drawn were out of capital account?

A True.

Q What is your statement?

A That is my statement.

Q.

Q. The account would be in such condition, upon which you would make the withdrawal, that there could not be anything but capital account in it- Is that your reply? There could be no credit to the balance of any year from which you made a transfer other than out of Capital account- other than the moneys of the capital account?

A. That can be made clear to the world and to you if you allow me to go down and bring up the Statement-

Q. I am simply dealing with the direct question and answer that you gave to Col. Ralston. Col Ralston asked you whether or not the moneys so transferred for any year or years were from capital account. Your answer is yes?

A. My answer is yes. If you mean that there would not be any other current year moneys to the credit of the particular year from which you made the withdrawal, that is the only money that could be there.

BY MR. STEWART

Q. On every occasion that these transfers were made from one year for the purpose of another year's account the voucher for the transfers was certified by the Auditor was it not? - the transfer was certified as being correct?

A. The transfer was certified as being correct.

Q. Was the transaction certified in any way by the Auditor?

A. The transaction was certified, yes.

Q. How?

A. By his name- he certified it as correct.

Q. And it was in that form when presented to the Mayor And to the Bank Manager?

A. Yes.

Q. And there were no exceptions to that?

A. No, I don't know of any.

Q. I think you told Col. Ralston that having found a certain balance in any year's account you could not tell whether that balance was capital or taxes, or what it was?

A. I did not.

Q. You did not say that?

A. I do not think it.

Q. Did you say in answer to that question that you could never tell at any given time how much was capital and how much was taxes?

A. If the loans were not ear-marked and I did not have the details of the withdrawals I could not.

Q. I don't know just where the suggestion came from but there was the suggestion that there was a hodge-podge account- you had complete records in your books- in your own books, which would show the unexpended amount of every capital appropriation?

A. Yes.

Q. From which you could find out the amount of uncollected taxes or unpaid taxes?

A. Certainly.

Q. And you could find very readily, could you not, what was taxes and what was capital?

A. In what way, yes.

Q. From your own books?

A. Yes, except towards the end of the year when the appropriations for the different committees were being expended.

Q. Exercised you mean?

A. Yes,- then you would find that there was no money in the bank, that there was a certain amount of taxes uncollected, which more than exceeded the amount of money that we had.

Q. That would only be at the end of the year?

A. At the end of the year.

Q. And that would not exist after the expiration of twelve months from the end of the year?- that state of affairs would not exist because there would be enough taxes come in during the intervening twelve months to have a surplus enough to make a substantial deposit?

A. There might not.

Q. I think the loan you referred to was \$35,000.?

A. Yes, but I did not say, or rather I did say that that there were accounts that came in that might wipe that out.

Q. At any time you could ascertain Mr. Hopewell, the amount expended against capital account?

A. Yes.

Q. And also the amount expended as against the estimates or current account by adding up the different committees' statements?

A. Yes.

Q. There would be no mystery about it?

A. No mystery about it whatever.

Q. It is a simple enough problem?

A. Yes.

Q. And the capital account would be very often confined to three or four or half a dozen items in one year?

A. In one year the capital account might take in sewers, pavements, pavement abutters, sidewalks, sidewalk abutters, curbs, and so on right through.

Q. How many more- altogether?

A. This would be what you call capital account we were running- in addition to that sums of money had been borrowed for specific purposes- some of which were not carried out- there was \$15,000. for a new motor chemical engine, \$5,000. borrowed for a new bathing house grounds which has never been expended.

Q. I believe that has been talked of for some years.

Mayor Inactive accounts and capital expenditures would be the same- they could be very readily checked up.

Mr. Stewart

Q. These cheques you produced tonight for payments- they all cover payments in the reserve fund?

A. They were supposed to cover payments in the reserve fund so that the money might be loaned to another year.

Q. In favor of the reserve account?

A. Yes sir.

Q. And that was so during the time that your predecessor was in office?

A. Yes sir.

Q. Was there any reason for producing these cheques?

A. I was asked to produce those cheques to show the changes of money.

Q. You didn't produce the vouchers which would accompany those cheques? - were not the vouchers for every cheque certified by the Auditor?

A. No sir.

Q. How does the Auditor express his assent or certification?

A. It would have expressed it in two ways- as a trustee of the reserve fund he would have knowledge of the transaction, and as the City Auditor when he was examining the cash of the treasury for those years he would have to notice the withdrawal from one year and the credit to the account of another year.

Q. You mean to say that the Auditor except as Trustee did not know of the transfer being made from one year to another?

A. I think I made myself clear.

Q. It is very easy to answer the question.

Mr. Ralston Knowing as trustee, he would know as the Auditor- he is not a dual person.

A. The Auditor knew of the transfer-remember, you are asking me something that I know nothing to do with at all

Q. Why did you purport to answer it?

A. I was asked to answer those questions through the books.

Col. Ralston did.

Q. Things which you knew nothing about personally?

A. Personally, I don't know. There could have been loans on those different books prior to 1916 that personally I don't know anything about.

Q. As a matter of fact, Mr. Hopewell, a moment ago you said that Mr. Foster as a trustee knew of these changes, these transfers?

A. Yes.

Q. And, as a matter of fact, you told me earlier in the evening that no resolution of the trustee authorized any of these transfers?

A. No resolution in the Minute Book of the sinking funds or reserve funds regarding any such transfer.

Q. And you have no personal knowledge of him knowing as trustee of these transactions, or authorizing these transactions as trustee?

A. No.

Q. No personal knowledge?

A. No.

Q. And yet didn't you say to me a few moments ago that whenever these cheques for transfers from one year to another were presented to the Mayor for signature, they bore the certification of the Auditor.- he certified the account?

A. I did nothing of the kind.

Mr. Stewart I will let the record stand as to what you have said.

Witness A statement showing the condition of those accounts was certified as correct by the City Auditor and that statement was shown to the Mayor before the necessary documents and changes were made in borrowing the thirty per cent. of the taxes.

Q. I think you will acquiesce, Mr. Hopewell, when I say that the question that I asked you formerly as to the certification of the Auditor had no reference to the borrowing of the thirty per cent- it had reference to the payment off of formal borrowings- transfers from one year to another?

A. Yes.

Mr. Ralston Mr. Stewart used the expression- he asked you if the City Auditor certified the transaction- certified

the transaction- certified it as correct- would it be quite proper to put it that way- the information which was contained in that statement, showing the condition of those borrowing accounts?

A. You may call it what you like, the condition on which we proposed to borrow the money- on which we would ask the Bank Manager to loan us this money, showing the uncollected taxes and cash balance,- this was certified as correct.

Q. It was a statement of information as to the bank account of that date, and that information primarily of course would come from your office, you being custodian of the funds?

A. Yes.

Q. You said also to my Learned Friend and me, as well, that these cheques could only be out of capital- why do you say that?

A. For the reason that the uncollected taxes and the cash balance that we had exceeded the money that we borrowed from the bank - consequently, whatever balance there was in excess of the combined uncollected taxes and bank balance must have been capital- there was no other place to get it.

Mr. Ralston You have counted uncollected taxes as capital?

A. I could only speak from the amount of uncollected taxes as was recorded in my books.

Q. You spoke once or twice of some document- an original document- a copy of one of these statements that you referred to- it is in the usual form?

A. In the form that was submitted to the bank.

Q. Containing information that you have spoken about?

A. Information I gave the bank.

Q. And also information you gave the Mayor?

A. The same thing- of course it had to go to him first.

Q. The bank had the same information the Mayor had?

A. The bank had the same information.

Mr. Ralston

After a lengthy examination of the charges I am serious when I say that no court of law for finding charges would substantiate charges of the vague and indefinite nature as these. In the usual course of things the counsel for the transaction, if I may put it that way, would open his case and explain exactly what he is going to prove. This is an unusual case, and what I suggest now is that the usual procedure should be suspended, that is to say, My Learned Friend state whatever evidence he has in support of these charges, then I am giving him the additional right, and will answer.

Alderman Bissett

I think I am voicing the opinion of the layment of this Council when I say that I believe the charges very specific, and I think the regular procedure should be followed.

Solicitor Bell I think Colonel Ralston's request might well be allowed.

Mr. Stewart objects and states usual procedure should be followed.

Mayor We would ask Mr. Ralston to speak to the Council in defence of the charge which the council has already heard against his client, and then we can reply to him afterwards.

You concur in the opinion expressed by Mr. Stewart?

The council can follow the procedure.

Alderman Power I move the question be now put.

Alderman Bissett I second that motion. I don't want to see my friend make a motion and not have it seconded.

Mayor Withdraw it for a moment- until we discuss it.

Colonel Ralston, are you prepared to proceed on behalf of your Client?

Mr. Ralston Yes.

Alderman Power I will have to move the motion out of order.

Mayor I ask the council not to entertain it at this stage. That is not the course to follow. The solicitors having waded through this, I would ask the council to be kindly guided by their advice. Mr. Ralston are you prepared to proceed with your case?

Mr. Ralston . As much as I can be on short notice.

Alderman Bissett withdraws his support of the motion.

Mr. Ralston Mr. Mayor and Gentlemen, this is not going to be a speech. I am going to endeavor to draw your attention to the various charges which have been made, and as briefly as I can to draw your attention to the evidence which has been presented, and to submit to you that there is no evidence here on which you gentlemen can entertain favorably the motion which was made by the Chairman of the Finance Committee a few evenings ago. I do not know whether you gentlemen have copies of the charges or not- I understand you have copies of the charges-beginning with the first one, and taking them just in the order in which we find them in the resolution presented by the Finance Committee. (reads first charge) No more technical charge could be presented against an official as ground for his dismissal. You have heard the counsel for the city, if I may put it that way- the counsel for the transaction for over an hour and a quarter, with the City Treasurer, go over and over the same thing, and we have finally come back to the conclusion which was reached about the third question that I asked the

the City Treasurer the first night, and even before that- the first question asked Alderman Whitman- whether or not these transfers which have been made from year to year, and which are now the subject of discussion- and the evidence given on the first charge- whether or not that has not been the doings of the city for the last ten or twelve years. What happened is that this city, which has a bank account in 1914 gets a loan at the very first of the year from the bank- that is put to the credit of the account, and salaries are paid out of it; different disbursements of the City works are made. Taxes are collected gradually and at the end of the year a substantial balance remains. 1915 opens and a brand new account is kept. 1915 turns up with a balance, which is capital unexpended, but in the meantime 1914 has been getting taxes in during 1915. If in 1915 people are paying in their 1914 taxes the balance is increasing and they can pay back to the bank the thirty per cent, and still have some balance on hand. This is what Mr. Foster is charged with. He and the City Treasurer, and the Mayor, solemnly decide that it would be a good thing to save the city one thing lying idle there and use it and put it to the credit, temporarily of the 19¹6 account, and when 1916 gets in funds then they bring this transfer back to the 1914 account. There is no fear or no suggestion that the moneys of 1914 are used for the purposes of paying account of 1916. The City - issues cheques out of 1914 for services in 1916- so long as you keep the funds in that account ear-marked, you can tell immediately how much of that should be 1916 and what is 1914. When taxes are collected these borrowings are returned and there has been no payments to the 1916 account out of 1914 money. 1916 is still

apart from 1914, and having come in funds it amounts to simply a temporary method of financing used every day by any business-house, and by the City for the last ten years. Further than that, Mr. Mayor and Gentlemen, the City Charter provides, has provision for the payment of account of one year out of the revenue of another year, and you have heard the City Treasurer cross-examined upside down and cross-wise, but you and everybody knew of the transactions and no objection was made. Alderman Whitman had to remain himself the other night that the funds of 1914 which are transferred to 1916 are not revenue, but are capital. They could not be revenue because all the taxes were not collected. If they had been there would be no balance of revenue left running into another year. It is not a transfer of 1914 revenue, but a transfer of 1914 capital (Reads section 395 of City Charter) Is this amount which is not in the estimates at all, is that appropriated to any work or services?— Is that the fund that is referred to in this section? Mr. Mayor and Gentlemen, I do not think I have to labor that particular charge very long. Further than that it is not within the Statute at all, it does not come within that section at all, but this has been done in the City of Halifax, and by Mayor after Mayor, men, legal gentlemen quite a number of them, who have had according to Mr. Hope-well the full facts put before them, and had a statement presented to them showing them the condition of affairs, of the reserve account, and where it has been pointed out to them that in order to finance this particular year of 1916 it would have to borrow from 1914. Then they have made these transfers, and further than that if you will believe it, the commission of this offence, which is now charged as being such a serious thing has been shown on the reports of this City

ever since 1910. Nobody has prosecuted the City Auditor, nobody suggested that he was doing wrong. He has been allowed to remain City Auditor all these years and now the City Council are telling to the world that he is guilty of a crime deserving of his dismissal. That, Mr. Mayor and Gentlemen, seems to have been the burden of my Learned Friend's examination of Mr. Hopewell tonight- as if there was something very serious in it; you will find further than that that you are liable to be dismissed, possibly this council has itself voted for these very purposes except Alderman Whitman, and yet- it is proposed by My Learned Friend that Mr. Foster- any one of these charges is quite sufficient to dismiss him- that Mr. Foster is to be dismissed because of the commission of this particular charge. In that connection I wish to point out the evidence of Alderman Whitman himself. I asked him pointed out to him all the different years in which the Returns show this has been done, 1921, 1922- they borrowed from no less than seven different accounts- seven different years. I said to him, -"This is the thing which is now being charged against Mr. Foster" I don't know" he said. I said, "You think it is the same?" He answered "It looks like it". In these different years loans were made to certain other years. My Learned Friend may suggest that there is some difference when the borrowing for 1916 is done for the purpose of repaying the Bank loan and when it is for the purpose of paying the Bank loan and when it is for the purpose of paying a policeman's salary. It is done- it is using the money of one year for another one. From the City Treasurer's cross-examination we find that as late as 1918 the Council directed that they use \$100,000. of City revenues for the purpose of Capital expenditure. That was an extraordinary occasion. It is perfectly all right

right for the Council to do it- use the revenue of the year for capital expenditure, but when a City Auditor does it, even though everybody knows he is doing it and even although it has been done for ten years, he should be dismissed in order that the City may save his superannuation fund. It is admitted by the Chairman of the Finance Committee that it has been done in this City all these years. I submit, Mr. Mayor and Gentlemen, that I do not have to go very much further in connection with that except to suggest that it is rather peculiar to keep the funds on one year so secret from another. Suppose you issue bonds this July, that you pay the interest on those bonds out of the capital which is raised on those bonds and next year put in the estimates a sufficient sum to repay back this year. Examine it-that is done all the time. It is no wrong or sin I submit. Is there any reason in the world why the City should have \$750,000 of uncollected taxes- why that money should not be used until some other year- until taxes are collected? The Charter does not suggest any, yet it is the headliner charge against Mr. Foster.

Now, the second charge. The Section which has to do with the reserve fund is 351 (3)

The reserve fund was established in 1902. They realized that it might be difficult to finance certain years and they wanted to establish some fund for the purpose of helping along a year- we will use the unexpended balances and put them in a fund until it gets up to \$75,000. and that is the reserve fund- they were to go to the reserve fund temporarily- for the time being, for the purpose of tiding a year over its trouble, but they say, according to Alderman Whitman that Mr. Foster was one of the trustees of the reserve fund and that he did not tell Alderman Whitman that he made these loans to these different years. The reserve fund is the cash.

account out of which money could be loaned to various years. They talk about securities; that the reserve fund could never be represented by securities. All that means is the obligation which a certain year owes to the reserve fund to pay back the money which has been borrowed, if the reserve fund was in operation at all. Ordinarily speaking, until you have loans made to different years how can there be any securities for them? In 1916, there is a record at the treasurer's office of the different years to which the reserve fund was loaned. Are there any minutes which show the authorization of these loans to any particular year—Mr. Hopewell has said there are not. Alderman Whitman was asked about that too. I asked Alderman Whitman about this reserve fund. I said, "What did you find out as to the date that the reserve fund was paid out?" he says "It is in Mr. Foster's report; it is away back. I was Chairman of the Finance Committee from 1909-12, and the lending of a dollar from the reserve fund never came before us and there is no note in our Minutes; those are the years a large portion was loaned and the trustees were the only ones to loan it, and they were loaned without the authority of the only people who could loan. Mr. Foster was a trustee, but one trustee cannot act for the Board. I have looked up these Minutes that perhaps Mr. Hopewell didn't notice. Alderman Whitman is not correct when he says there was no note in the Minutes in regard to this. I have found in the Minutes that Alderman Whitman was present at meetings of the trustees of this fund when a Statement was presented by the Auditor and signed by him showing just the years to which this reserve fund was loaned, and I have got those statements here under my hand— and Alderman Whitman tells me that there was no note in the Minutes of any kind and it was never brought up In a situation like

this, when it is reported to you that such a year has had a loan of so much, and so on, and that Statement is presented to you, and you make no objection to it of any kind, and it is recorded in the Minutes, do you think that is not an assent to the handling of the reserve fund in that way? (Reads from Minutes of the Trustees of the Sinking Fund held on November 17th, 1910)

"Present- The Mayor. Alderman Whitman the City Auditor.

The Minutes of last meeting were read and approved"

(reads minutes). A Statement was submitted at that meeting by the City Treasurer and a list of securities of the various trust funds. and, what do you find at the end of that Statement, \$

"Loan 1906	\$11,250.00
1907	31,806.75
1908	11,850.00, making a

total of \$54,906.75. In the Minutes is a Statement that the list was submitted, and here is the list submitted by the City Treasurer. When you have a list presented by an official of the City, and referred to in the Minutes of a meeting at which a gentlemen is present, he is bound to say " He was never given an opportunity". Alderman Whitman states that there is no note in the Minutes about any of these amounts being loaned. The Minutes of the meeting at which he was present and the list of the securities are there, yet the position that he takes now is why you could not have loaned that reserve fund to 1906- I did not know that in 1907 there was a loan of \$31,000, in 1908 over \$11,000. There was no sign of objection. His memory has failed. Why should the City Auditor be told that these matters were never brought up- here we have the documentary evidence of the City Treasurer in office. The date of that meeting was 1910. Between 1909- 1910 - there was three different meetings between these dates at which

these Statements were presented. Take the meeting of July 16, 1909, a year before (Reads form minutes) -Minutes of Meeting of the Trustees of the Sinking Fund held July 16, 1909. Present: The Mayor, Alderman Whitman and the City Auditor. Minutes of last meeting were read and approved. A Statement listing the securities on hand certified as correct by the Auditor. Signed W.L. Brown, J.A.Chisholm There is a list of securities dated on the backin hands of City Treasurer on July 16j, 1909 ; I am reading from Minutes of meeting held July 16, 1909; The statement is that these Minutes are read and approved, that the City Treasurer submitted a list of securities, and that this list was certified as correct by the City Auditor, and dated July 16th, 1909. I have produced and proved copies of the Statements in his office referred to in these Minutes in order to identify them. I want to point out that in the next Minutes- the Minutes of the next meeting, held two months after, the Minutes of the last meeting, at which the list was presented, were read and approved. Alderman Whitman was present on that occasion as well. The list subm itted shows the various accounts to which the reserve fund was loaned,-

1903 account	\$	2350.00
1904 "		8850.00
1905 "		11500.00
1906 "		16750.00
1907 "		12050.00 making a total of

\$51,500.00 and at the end is the certificate of the City Auditor. The Trustees, including Alderman Whitman, were aware that these moeys were loaned and that transfers were made. He heard the Minutes read and approved and heard them call the list of securities, and he knew that as far as the Reserve fund was concerned it consisted

of moneys which were due by one year to another. At the next meeting, about six months after, at which Alderman Whitman was again present, the City Treasurer submitted a list of securities held by him, the same having been certified by the City Auditor, and dated March 7th, 1910. I have in my hand the list of securities dated March 7th, 1910, and under the hand of the City Auditor at the tail end of that list is the reserve fund account-

Loan \$904	\$ 5,250.00
1905	1,100.00
1906	16,750.00
1907	31,806.75

He attended the next meeting and heard the last Minutes read and approved, but Mr. Foster is to be fired today for having dealt with reserve funds without notice to him. My Learned Friend took considerable time tonight to get from the City Treasurer the fact that these funds- moneys- had been loaned to other years than the current year in. was dealt with. He cross-examined him and got him to state that the reserve fund was loaned, for instance, in 1916 to 1914, He was going to make it a condition of the City Charter that it must be loaned to the year in which you were actually working. If it is 1915 and you want to deal with the reserve fund you can loan it to 1915, he would say you cannot loan to 1914 or 1913 to pay back bank loans; you cannot loan to those years- only to the year . He would emphasize emphatically these charges which are being made as justification for dismissing the City Auditor. Unless Authorized by an act of the legislature, it shall not be lawful for the council to borrow on the credit of the City any sum of money whatsoever, except a loan in

in anticipation of the year's taxes as hereinbefore provided". I submit that "the year's taxes " does not mean taxes in that particular year, but any year's taxes which need the money. He 'authorized and permitted the reserve fund to be used for years other than the year in which the transaction took place' Will you believe it, that in 1910 they loaned to 1907 the difference between \$12,000, which was loaned in July 1909, and \$31,000 which was loaned March 7th, 1910, in other words, that they loaned \$19,000 to the year 1907 between 1909 and 1910, and yet they were the Year's taxes. His contention, after the examination of the City Treasurer, will be that that can't be done. The trustees were there. Is Mr. Foster to be dismissed for what Alderman Whitman has ratified and done? The next meeting was held on November 17th, 1910, will you believe me that between March and November, 1910, they had loaned to 1908 \$11,850.00, and that a statement was presented at that meeting, which Alderman Whitman attended- presented as part of the securities of the City, and that Alderman Whitman came to the next meeting and heard the Minutes read and passed, and ratified. Mr Mayor and Gentlemen I submit that there is no ground for saying that the City Auditor has committed any offence whatever in connection with these funds- if they consider that that is the interpretation of the Charter, the blame should not fall on the City Auditor. If that was wrong should they, such estimable gentlemen, who concurred in what was done, say it is ground for the dismissal of the City Auditor in this year of Grace 1924. So much for the second charge. No record in the Minutes, when a full Statement was presented showing exactly where the reserve fund was, and the Minutes ratified by the Chairman of the Finance Committee now and then, so that we do not have to take that evidence

due of course to Alderman Whitman's memory. The next charge is with regard to under-deposit by the Secretary of the Housing Commission. There has been extreme evidence on that. In a report which was submitted by Price, Waterhouse & Company they state that,-

"A reconciliation of all cash receipts and disbursements as shown by the Cash Book with the Deposits and withdrawals as shown by the Bank statements, disclosed the fact that all cash entered in the cash book up to October 31, 1922, had not been deposited in the Bank as received. The under-deposit in Bank was apparently made up in November 1922, during which month the deposits were approximately \$3,300.00 in excess of the receipts shown by the Cash Book. We understand that the additional deposits were made as the result of the insistence of the City Auditor or that the bank deposits should be brought up to date, but so far as we can ascertain the matter was not reported to the Commission"

This is the only evidence submitted on a charge that "the City Auditor being aware of the misappropriation of large sums of money.....did wilfully and in breach of his duty as such City Auditor omit to report such misappropriation to the said Housing Commission or to the City of Halifax, but on the contrary did conceal such information." It means that the independent auditors who were brought down here by this City for the purpose of going into the accounts found Thomas Hayes as having received so much money the full amount of which was not deposited in the bank as received. They did not themselves suggest, as I think, that there was any appropriation by Mr. Hayes of that money. All they say is that it was "under-deposit". The City Auditor as a result insisted that additional deposits be made and that the bank account was brought up to date. Under-deposit means misappropriation? -Unfortunately for such a contention the Chairman of the Finance Committee tonight has moved, and this Council has passed unanimously that the charge which says that the City Auditor well knew that large sums of money belonging to the City had been misappropriated. They were under-deposit. You have expressly

decided that the charge as to knowledge of misappropriation should be struck out. You cannot now leave in the knowledge of misappropriation by Mr. Hayes, when the only evidence is that of these auditors who do not take the responsibility that there was any misappropriation in connection with those funds. What is the situation?—the situation is shown by the evidence; Price, Waterhouse & Co. found that Thomas Hayes had under-deposit a certain sum of money in the bank, the amount of which was shown on his Cash Book—shown there for the world to see. He simply did not deposit it in the bank, but through the insistence of the City Auditor he did deposit it and the transaction is closed. There are suggestions that the City Auditor should have reported that Thomas Hayes had misappropriated money— the City Auditor is in rather a peculiar position in regard to the Housing Commission. The Housing Commission Act provides. Quotes Housing Commission Act, 1919, Ch. 4 section 18, sub-section 7. There is no evidence that there was any request that the City Auditor take on this job. There is no suggestion whatever of the loss of a single cent, or any defalcation whatever. Some such suggestion must be made if this charge is going to be sustained at all, and, notwithstanding the fact that Mr. Foster did not have to touch this thing at all, Mr. Foster by insisting on this man making up his deposit has thereby made himself liable to be dismissed. You gentlemen know the provisions of the City Charter with regard to what Mr. Foster's duty is. What did he do in My Hayes' case. He took immediate steps to have an audit made every week in order to see that he did not under-deposit his account. I submit, Mr. Mayor and Gentlemen, that there was no such request by the Housing Commission, secondly, that Hayes did not refuse to hand over, or neglect to pay over these moneys— that the evidence is just

is just the opposite, that the report of the Auditors showed an under-deposit of the funds, which funds were paid over to the City on the insistence of the City Auditor, namely, as a result of his doing his duty, that you have dismissed out of this charge any suggestion that Mr. Foster knew of misappropriation, and if you had not dismissed it you had not evidence that there was any misappropriation. One of the members said, 'He knew these monies were stolen- as accessory after the fact' When all the formalities of a court have been followed we have been endeavoring to try these charges is that the way to treat this matter- should it be treated by this Council in that way.

Now, the 4th charge? - the neglect to take any effective means to ascertain the revenue of the City, the revenue received by the City Collector, the Clerk of Works, the Secretary of the Housing Commission and the City Clerk.

I have already dealt with the Housing Commission. What is the City Auditor required to do? They say he neglected to ascertain the revenue received. How do you ascertain the revenue received? He goes into the City Collector's office- there are the cheques, cheque stubs, Cash Book- and he says show me these things. He checks up the amount into the Ledger- he goes to the Transfer Book, which is the book- the voucher passing between him and the City Treasurer. He finds it all right. Is that neglecting to ascertain the revenue? Should he constitute himself a qualified City Clerk and do the work of a City Clerk and a City Assessor. Should he go over the Assessment Roll and see that people are paying up their taxes, a large proportion of these away back, and constantly check them up? A simple way to ascertain the revenue. Formerly, and I think wisely, the City Charter provided a way of checking up taxes- that method was not by considering a City

Auditor a City Collector. It required the City Collector to lay on the table of this Council once a month a report showing the separate amounts on account of taxes- a list showing the total amount of uncollected taxes.

Section 321 provides (Reads section) Till then you would know who had paid his taxes and everybody would be keen to see that his tax payments appeared in this public Statement which was presented to the Council once a month. That fell into disuse. The City Collector was relieved of that duty altogether. Somebody is to be blamed for that- the City Auditor was not told to take it on. he has been blamed for almost everything else. Was there any revenue shown on the books of original entry that the City Auditor did not check up? That is the suggestion which is made. In April, 1923, \$728,000 were still uncollected in this City; the present uncollected taxes amount to \$513,000. It will probably take years for the City to get cleaned up. Do not blame on the City Auditor a duty which developed on the City Collector. There is no evidence that there was any revenue received shown on the books of the City Collector that the City Auditor did not check up. The City Clerk is also mentioned here- 'that he neglected to ascertain the revenue received by the City Clerk.' In 1902 a new system was inaugurated- by a change of regime cash was collected by another official. Yet it is the City Auditor's duty for the purpose of justifying the recommendation that he be dismissed. The only thing that is left of that Statement is the fact that the City Clerk received \$450. for Cemetery lots and did not pay it over as soon as he got it. The City Clerk took this on as a purely temporary job. Immediately it became the City Auditor's duty to rush

into the City Clerk's office every month and see that the City Clerk was depositing money just as soon as received. The City Clerk was talking on something that was not his job.- it was only temporary. A few lots were sold- the thing to do was to audit them when they got through - when the sale was completed. There is no suggestion that the money was not paid over. There was not a cent received by the City Clerk as shown by the books that was not deposited with the City Treasurer, and there were no funds received, shown on the books, which the City Auditor did not check up. (Reads 5th charge) Section 320 of the City Charter provides "He shall pay over each day all sums by him so collected to the Treasurer, taking his receipt therefor, certified by the Auditor".

It was suggested that any of this money that was not paid over on the day it was received- My Learned Friend claims such monies were in defalcation, and that the City Auditor did not see that the City Clerk paid over the money the same day as he received it.

Section 320 says ' pay over the money every day' and, ' it shall be certified by the auditor'

You will remember Mr. Hopewell described the system. If payments are made in 1914, 1912, 1918 on account of water and sewers, the result is you have got to go down- if you have a Cash Book for those different years you have got to enter it under the proper columns get the Transfer books for those years, which is the voucher for the deposits- you have got to make up a slip, and take that to the City Treasurer and Deposit it. I can show you in the very book which has been put in after the former City Collector had gone that moneys which had been paid in in the month of July were being paid in the City Treasurer's office as late as the last of August and 1st of September- that was under the new

regime. Why, you ask me? The reason is because in July is the great rush on account of tax discounts. All the City Collector's office can do is to pay the money into tax and to keep it in the best shape they can until they get a chance to enter it in all those books. That will go on- it cannot help but go on. Unless you have a staff of fifty people how are you going to handle all the money which comes in at those rush times? The result is that you cannot pay over every day as fast as the money comes in. It is left there for days and weeks at a time, and that will continue until the staff is substantially increased. A serious charge should be made against Mr. Foster for not seeing to it that money was paid over under circumstances when it could not be paid over, He would have to go down there, check with the various Cash Books the enormous amount of money which is received at those times, check with the transfer books- from the receipts Stubs- the receipt which had been signed by the City Treasurer. In the Transfer book of 1923 you will find that tax discounts were under-allowed in September by reason of the fact that the amounts had been paid in July but were not paid in the Treasurer's office until the last of August or the first of September. That must happen, and will happen, and you will find that just a year before that, the year which is referred to, in that very year during the month of August these discounts were still being taken- this under the new regime when they would deposit every day down in September 12th, they are still depositing monies which have been paid in under cash discount. You cannot expect Mr. Foster to see that something was being done which could not be done even when the new scheme was being inaugurated. Turn to the Transfer Book For 1921.

Monies which were paid in in November were not deposited until December. When the water rates come in they are a little more careful, - the monies which were deposited regularly, every day, were monies on account of water- the only thing allowed to get back was the current account. \$6,000. was not deposited until September 1st. You will find sings of the City Auditor's activity when on February 1st every cent of money which had come in to that office up to the night before was paid over and transferred to the City Treasurer's office, and that under Mr. Foster's regime Is the City Auditor to walk into the City Collector's office every day of his life and audit the account there? The Charter does say, - the receipt by the City Treasurer shall be certified by the Auditor. Mr. Foster's audit was a monthly one- payments were made but no entries were made on the books of the City. Miss Gowen has not yet initialled every February Cheque, only down to a certain date. The Auditors reported to Mr. Foster that to carry on the work of the office as he had endeavored to do would take four hands, and to do it as it should be done it would take eight. The duties of the City Auditor are contained at page 301. Is there any suggestion that the Auditor did not audit once a month- that one dollars has gone astray? The Receipt books are here. Is the Auditor to be a detective and a policeman and a handwriting expert to be able to discover that Receipt Books are being mutilated that money is being received and not entered into the books? There is no suggestion that he has not made his monthly audit- no suggestion of a dollar defaulted. I submit, Mr. Mayor and Gentlemen, that that charge is the most flimsy of the lot. The first thing is that it is not supported by the situation that arises, namely, that it is impossible for the City ~~xxxxxxx~~ Collector

to pay over the money let alone to let the City Auditor audit it. The defalcations, for which everybody now is trying to blame somebody else, were caused, as the books show, not by any neglect on the part of the City Auditor, but because of the fact that Receipt Books were mutilated and tax bills were improvised so that there would be no record in the City Collector's office of the receipt of these monies. There is no evidence of any neglect of the Auditor- that it is due to any neglect of the City Auditor that the City is out some money. Who knew that he had money on hand and was not paying it over? Every cent shown on his books has been transferred to the City Treasurer.

The last charge I do not know where they get that.

If the City Auditor had done any of these things the City would not be owing any money; the Independent Auditors will tell you that a man can tear out Receipts, and issue tax bills to people on his own letterheads, and it will take more than a City Auditor to catch him. Men have been paid to catch defalcations of that kind. The suggestion now is that the City Auditor neglected to do some duty which is not defined and that is putting it on pretty thick, duties which extended from the City Home to Rockhead Prison taking in the services of a corporation that turned over some \$5,000,000.00 a year, and no one to do the work but himself and his assistant. We have Alderman Whitman's evidence- "This has been going on ten years; if the thing was not borrowed ten years ago we would not be able to pay our bills and would know where we stood and it would be cleaned up ten years ago". If the City Auditor had not permitted these borrowings you would have been up against a stone wall.- then you would have collected your bills more promptly. The City Auditor is not a tax collector yet this is the burden of this charge. Mr. Mayor and Gentlemen,

I am not going to put on any sob stuff for Mr. Foster, but he has served this City for about thirty years. During all the time the Independent Auditors were making the investigation he remained at his post; he was not suspended; he stayed on the job all through the time they were there. He is compelled to resign on account of ill-health as the certificate of his physician can show and he is to be dismissed from office. I have endeavored to put his case before you. I submit there is not and has not been any evidence which would justify you taking the action which it is suggested you take. I submit that it is a pretty serious state of affairs. In the report of the Independent Auditors they state, "Nothing has arisen during the course of our investigation which would lead us to doubt the honesty and integrity of the City Auditor". It is a serious situation. In spite of that, he is to be dismissed? If you feel that you have done the right thing in voting for his dismissal, I submit that there never has been a set of such flimsy charges brought against any public official holding a responsible position which are brought here, and the subject of your consideration. As a City official he has endeavored to serve this City well.- Take the case of someone in your employ- a trusted official in your business- should Mr. Foster be branded- should it be on the records of this City that he was guilty of these charges? He has his legal rights in the courts so far as the finding of fact is concerned. Why blame the City Auditor for what has happened, but somebody must be blamed and there is the suggestion, Let's pass the resolution. I may be a small thing to some gentlemen- I submit it is a most serious thing- to send him forth as guilty of these charges.

MR. STEWART I want to call your attention to a few statutory provisions. I suggest that what My Learned Friend read from page 301 does not summarize the duties of a City Auditor. I can assure you of that - read section 326 and you will see that the City Auditor is a very important and responsible official of this City- "The auditor shall audit, inspect, check and correct all books, accounts and receipts, and supervise all financial business of and connected with the corporation of the City and shall perform such other duties pertaining to his office as the Council from time to time requires him to perform". The City Auditor is a Minister of Finance under the Charter. He has supervision over all financial business of and connected with the corporation of the City. In addition to that My Learned Friend did not read this portion of what is to be found on page 301,- Ordinance No.3 section 4, sub-section 3- "No warrant shall be signed by the Mayor or Clerk until the auditor first certified as to the correctness of the account for which it is drawn, and that there are funds out of which it may be properly paid". I think your Worship and Gentlemen, that having called your attention to Section 326, and Section 4, sub-section 3 of the Ordinance I need say nothing more in regard to the first and second charges. It is established beyond peradventure by Mr. Hopewell's evidence that the accounts of various years, numerous years, from time to time were utilized for the payment of accounts that properly belonged to other years. It is also clear beyond peradventure that the reserve fund was devoted to loans to years other than the current year- that is clear- the facts are established beyond possibility of dispute. The main answer my Learned Friend makes is this, - Alderman Whitman fifteen years ago knew that something of the same sort

was being done, and in order to prove that Alderman Whitman knew what was being done he refers to Minutes which in turn refer to another document, from which alone I say it is impossible for anyone to conclude that Alderman Whitman, or the Mayor, or anyone else knew that money was being loaned from the reserve fund to any other than the current year. It is abundantly clear that these transfers from one year to the other out of the reserve fund were in every case unauthorized, made without any resolution of the trustees of the sinking fund and reserve fund. He reads from three reports of the City Auditor made away back in 1909, 1910 and 1911, presented as the assumption of something that has been done. It may prove and probably it is true that the report of of the trustees showed how certain money had been loaned, but under the Charter the real question is- was the money loaned from the reserve to the year in which it was loaned, and was it loaned in anticipation of the collection of the taxes for that year? In connection with the City Collector I have to refer to, (the only other charge in respect of which I have to make reference to the Charter), Section 320 (reads section 320). The charge stated with reference to the City Auditor is this,- that he knew at all times, every book in the City collector's office shows that the City Collector was retaining in his hands for periods of weeks monies which by section 320 of the Charter were directed by the Charter to be deposited daily. In reply to that charge, which is established beyond question, there is not the slightest question that the charges are proved, admitted tacitly but the argument my Learned Friend makes- what he contends is this- it had to be- The Transfer book down to the end of the 1923 shows something happening ~~years~~ in the last three months of that year that has been happening years and years in

and years in the City of Halifax. In the current year there is a daily deposit from the Collector's office to the Treasurer. The first three whole months Mr. Dimock was able to make his desposits daily. My Learned Friend argues 'let us to beasonable '. He takes one illustration from the year 1923- goes back to July- he goes back to a period between the dismissal of Theakston and the appointment of Dimock. and from that he argues that becaused one or two sums were held over it was impossible for Theakston to carry out the law. That may be an argument in Theakston's favor- it is none in Mr. Foster's favor. Why was this charge inserted? Why does the Finance Committee contend that monies were being held back by the Collector and that the City Auditor was not requiring him to deposit them as and when received? I will tall you why- what was done was this,- day after day he would receive and put in his cash book bills and would hold them until a big cheque came in from one of the bigger tax-payers of the City- this was then paid over in payment of a large number of accounts, this was the very oppportunity that the City Auditor gave to him by not requiring him to deposit the money daily. The City Collector could receive and catalogue bills and coins until a large cheque cme in from a rate-payer like Mr. Roy or Mr. Paige- that cheque would be payable to the City of Halifax- that would be course not be diverted- the Collector could then pass on to othe Treasurer in payment of a large number of book accounts this big cheque from one tag tax payer and then not make an entry of Mr. Roy's or Mr. Paige's payment in his books. That was the oppportunity that was given to the City Collector by the Auditor not carrying out the duties imposed upon him by the Auditor. That is what resulted in the loss of \$100,000.00 in actual cash, stolen, to this City, and

and that is why the City Collector this year could not and dare not sell the various properties on which three or more years' taxes were due. That one omission has had the effect of bringing the City of Halifax to the financial position in which it finds itself today-on the financial basis from which this City is suffering today- because the City Auditor permitted the City Collector to catalogue, 15, 20, 30 or 40 days' cash in his Cash Books and then whenever a large cheque came in made payable to the City of Halifax pay it over in payment of a large number of tax accounts. That to my mind is the correct and absolutely fair diagnosis of our present position. In addition to that in the Housing Commission, surely it is the duty of an Auditor when he finds that there are arrears piling up to inquire into the cause of that- to question and cross-question the official whose duty it is to collect them. Not at all, we find that he allowed Mr Hayes to get behind in his accounts to the extent of \$3300.00 We find that he gave him an opportunity to do that. We find that it was made up, but unfortunately a short time afterwards the same offence is repeated. "Under deposit" is a nice word- misappropriation is just a synonym the same thing, except one is anonymous and the other is calling a spade a spade. On account of his knowledge of that misappropriation, defalcation- call it anything you like - the City is today faced with a deficiency on the bond of the Secretary- (Mr. Ralston objects to Mr. Stewart stating things as facts which are not on the record before the Council in any way or entered)

MR. STEWART I submit that this is not a court of law, this body has not the power to administer an oath- it is a curious thing that in spite of all the evidence that

that has come before the Council in respect to the person whose conduct is in question, he has not seen fit to appear before you and make a Statement - if he was unjustly accused he could come before you and make a Statement on his own behalf. My Learned Friend says further in reference to that there was more work in the Auditor's office than could be done by the Staff they had- there was more work than he and his assistant could overtake. There is not the slightest evidence that the City Auditor ever asked for further assistance from the Council, no suggestion that he ever wanted further assistance. His duties are set ^{out} in several paragraphs of the Charter. If he was unable to carry out those duties why did he not report to the Council, to the Mayor, to someone in authority- ask him for some suggestion to enable him to carry out his duties. With reference to- turn again to the Housing Commission report- My Learned Friend has based his argument entirely on the fact that the Independent Auditors report goes Hayes may have had the money in his pocket or his Cash Box. It is clear that Mr. Foster discussed the matter with Mr. Hayes- why did not Mr. Foster come before us and tell us that the money was in his Cash Box or pocket- it was available whenever he asked for it the Plain ordinary meaning is that Mr. Foster knew of the defalcations and gave time for the Secretary of the Housing Commission to make good his default without reporting to the Council or to the Mayor. He says because the Mayors knew that Transfers were being made from one year to another, and because Alderman Whitman might have know it if he had picked up the annual reports and scanned them carefully from cover to cover. for that reason, Gentlemen, your predecessors and the Mayors in office the last twenty years are called guilty

with Mr. Foster. Can anything be more unjust or unreasonable than a suggestion of that kind? Mr. Foster has occupied a position the duty of which is to keep check on that thing. It was his duty primarily to advise you clearly that this or that is being properly done in the transaction of the City's business. It is not for the Mayor I submit to be astute enough to change a certified voucher of the City Auditor when presented to him by the City Treasurer or anyone else. It is the Mayor's right and perhaps duty to sign it, not to question it, I submit. If by certifying every account the City Auditor is certifying in accordance with the Ordinance at Page 301, that is what he is saying to the Mayor, I certify that this account is correct and that there are funds out of which it may be properly paid. The Mayor is entitled to rely on that absolutely and the complete responsibility for the correctness of the account and the fund from which it is drawn rests primarily, absolutely and solely on the City Auditor. My Learned Friend has made a very eloquent address- remarked on the length of services of the City Auditor- he appealed to your sympathy- my only reply to that is that this Council should consider first the City of Halifax and the Tax-payers who are today bearing the burden of taxation, facing a financial position and responsibility which has been largely due by the failure of this Auditor to carry out the provisions of the Charter and the Ordinance. In exercising your vote on this resolution I would suggest that that should be borne in mind equally with the length of services of Mr. Foster.

The Mayor reads the following communication signed by Alderman Munnis-

"For business reasons I am obliged to be away from the City for a short period and wish to inform you that I have today arranged with Alderman Schaffner to "Paid off" on the Foster question"

(Dated March 25th, and addressed to the Mayor)

Mayor states he knows of no powers the Council has to arrange any such "Pairing off" and that he has discussed the matter with the solicitor and he has never heard of any such arrangement.

Mayor Does any member of the Council desire to ask any question or be better informed on any matter that has been brought up at any of these Hearings? Throughout the entire discussion of the three evenings this matter has been on I have endeavored, personally, and I think the members of the Council have, to extend a very wide scope to the inquiry, to give the solicitor acting for Mr. Foster every opportunity to fully state his Client's case, and I think that the City's case has been equally carefully stated to the Council. We have from the solicitor of Mr. Foster his own appreciation of the Court-ices and the privileges extended, and I am quite sure whatever decision is reached there can be no objection raised from that regard. This Council has patiently dealt with this and unless there is any further discussion I propose to now put the vote. Unless there is a question- proceed with the vote.

A Motion was read that the report of the Finance Committee dated the 18th day of February A.D. 1924 " is tonight amended" (Resolution read, as amended) Resolution moved by Alderman Whitman and seconded by W.O. Cameron

Mayor We will proceed to vote on that Resolution, as read.

The result of the vote was as follows:

Alderman Whitman, Sanford, Bissett, Gastonguay Cameron
(H.W.) McDona,d Guildford, Whelan, O'Toole, Drysdale
W.O. Cameron and Daw for; Alderman Colwell, Finaly,
Schaffner and Hubley against.

Mayor The necessary two-thirds vote of Council is
confirmed , passed.