

# MAINE STATE LEGISLATURE

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Legislative Record

OF THE

# Eighty-Sixth Legislature

OF THE

STATE OF MAINE

Special Session, December 4, 1933

KENNEBEC JOURNAL COMPANY  
AUGUSTA, MAINE

In the Senate the report read and accepted.

In the House recommitted to the Committee on Legal Affairs in non-concurrence.

In the Senate, on motion by Mr. Blaisdell of Hancock, that body voted to adhere.

Sent down for concurrence.

(At this point Mr. Weatherbee of Penobscot assumed the Chair, the President retiring.)

The majority of the Committee on Temperance on "Resolve proposing the repeal of the 26th amendment to the Constitution, relating to the manufacture and sale of intoxicating liquors" (H. P. 137, L. D. 138) reported that the same ought to pass.

(Signed)

Messrs. Farnsworth of Aroostook  
McDonald of Washington  
Bissett of Cumberland  
—of the Senate

Messrs. Hobbs of Hope  
Bucknam of Portland  
Leathers of Herman

Mrs. Carter of Fairfield  
—of the House

The Minority of the same Committee on the same subject reported that the same ought not to pass.

(Signed)

Messrs. Tompkins of Bridgewater  
Stover of Pownal  
Littlefield of Alfred

—of the House

In the House the Majority Report accepted, under suspension of rules the bill given its several readings and passed to be engrossed.

In the Senate; on motion by Mr. Bissett of Cumberland the majority report "ought to pass" was accepted and under suspension of the rules the bill was given its two several readings.

Thereupon, Mr. Murchie of Washington offered Senate Amendment "A" and moved its adoption: "Senate Amendment 'A' to Legislative Document 138, Resolve proposing the repeal of the 26th Amendment to the Constitution, relating to the manufacture and sale of intoxicating liquors. Amend Legislative Document 138 by striking out the title and substituting in place thereof the following: 'Resolve proposing the amendment of the 26th amend-

ment to the Constitution relating to the manufacture and sale of intoxicating liquors by vesting full control in the electors.'

'Sec. 2. Amend Legislative Document 138 by striking out the word 'repeal' at the end of the second line and substituting in place thereof the following words: 'amended by striking out all of said section and inserting in place thereof the following: 'The Legislature shall pass no Act regulating or permitting the manufacture or sale of beverages containing more than four per cent. of alcohol by volume, as an emergency measure within the meaning of Article XXXI of the amendments to the Constitution, unless such act itself contains a provision for its submission to the vote of the electors.'

'Sec. 3. Amend Legislative Document 138 by striking out the question is the twelfth and thirteenth line of said document and substituting in place thereof the following: 'Shall the Constitution be amended by eliminating the present absolute prohibition against the manufacture and sale of intoxicating liquors and vesting the control of legislation dealing with the subject of intoxicating liquors in the electors?'

Mr. MURCHIE of Washington: Mr. President, I arise with a good deal of reluctance for two reasons. First, because I have urged more insistently than any other member of the legislature, so far as I am aware, that the legislature speed its progress and reach adjournment this week. Second, because I realize only too well that with a united Democracy and an organization in the Republican party working in close harmony and union, there is very little likelihood that this Senate will listen to any suggestion for a change in the planned program, regardless of its merits.

We have heard throughout the length and breadth of this land for a matter of years, and throughout the length and breadth of this state for a matter of decades, that the people should be given an opportunity to rule on the question of intoxicating liquor.

Until an amendment suggesting a modification of the Constitution was presented for consideration, it was the theory of those favoring a change that no alternative could

be suggested which would at one and the same time vest the right of control in the people, and yet furnish an opportunity for the liberalization of the liquor laws.

I think the members of this Senate are fully aware that there is no member of this Senate or of this legislature, and so far as I know, no citizen in the State of Maine who is more fully aware of the fact and more willing to grant the wish that the people of the State of Maine desire an opportunity to liberalize their liquor laws. During the winter when the question of Federal repeal was uppermost in our minds, while those whom I style the "extremists" sought to place upon my course the interpretation that I was seeking to defeat repeal, I was endeavoring as strongly as were they to see to it that the State of Maine should join in federal repeal, and I expressed before the legislative committee at its hearing, the belief that the State of Maine, by any proper yard stick, would so join the course of repeal. Events, I think, justified that prediction. And lest there be some doubt as to my own position, let me say that in the County of Washington I was the chairman of the organization for repeal.

I think it is an undoubted fact that, Federal prohibition having gone into the discard, the laws of the State of Maine should be put in line with the new nation-wide policy, and I have introduced a bill for that purpose. I think it is also a fact that the people of the State of Maine should be given an opportunity to vote to liberalize their liquor laws and I introduced an amendment for that purpose.

I do not believe, however, that there is any necessity for this legislature to vest in the legislature of the State of Maine,—not in the people, but in the legislature of the State of Maine—the right to set up a saloon within the borders of the State of Maine or the right to use rum in the State of Maine as a medium for securing major revenue into the state treasury.

I hear it argued around the corridors and it will probably be argued in this Senate that the people of the State of Maine want an opportunity to vote "Yes" or "No" on the question of the repeal of the Twenty-sixth Amendment, and I say

to you that nobody has appeared in these legislative halls at hearings or on the stump to say it is a fact except the hotel interests of the State of Maine who want to convert their hotels into saloons. The people of the State of Maine want to vote to liberalize, but if you gentlemen and our lady member have ever taken the trouble to inquire of any of your constituents whether they insist on outright repeal or are seeking to merely test the sentiment of liberalization, I have no doubt you will have found it as I have found it, that all they want is an opportunity to vote to approve or disapprove constitutional absolute prohibition of sale.

I have heard the statement made that the resolve which I introduced would not permit the sale of the heavier intoxicants, and I know that no member of this Senate can possibly make that statement. Those who are interested in blinding the legislature to the actual question make it freely, and they exist in substantial numbers. I have introduced this amendment to "smoke out" those gentlemen who are talking, not about saloons but about the sacred, sovereign right of the people to rule, and this amendment vests the authority over liquor legislation in the sovereign people of the State of Maine. It will serve no other purpose than to make it impossible for the legislature of Maine, under the pretext that an emergency exists, to pass an act which will legalize the saloon or which will put Maine on a rum selling revenue basis.

I may clear the atmosphere a little by saying this, that in this legislature if those obstructionists who form the extreme "drys" were able to muster enough strength without my vote to block the people of the State of Maine from securing an opportunity to vote for liberalization, I would join wholeheartedly with those who advocate the "wet" cause, if I may so designate it, in casting my vote for that right. The situation in this legislature is not that it is being blocked by the "drys" but that it is being blocked by the "wets", under the guise spread throughout the legislature among the Republican members that the Party welfare requires the people be given an opportunity to vote and the Democracy will block any vote except absolute repeal. And

the Lewiston Journal last evening shows the foundation for that fable where Mr. Staples says, "The Governor says that he will sign no Constitutional amendment referendum liquor bill that does not seek straight-out resubmission. In other words, the Governor wants the matter referred to the people in plain and simple language."

What I desire to know, Mr. President and Members of this Senate, is whether the Governor desires it in the interests of saloons, in the interest of hotels, or in the interests of securing for the people their sovereign right.

The Governor, in his message to this special session, departing from the language of the two national committees at the time of their adoption of their several platforms, that the saloon must not be established in the State of Maine in contradistinction to the plain forthright declaration of President Roosevelt in making his proclamation of the end of federal prohibition, that the saloon in any form should never be permitted to return anywhere in this country, made this statement, "The old fashioned saloon must not come back." And if there is any declaration from the chief executive of this state or any state that the saloon in some new guise or form is to be returned, it is contained in that simple statement; "the old fashioned saloon must not come back."

Members of the Senate, you are voting today not on the question as to whether the people shall have the right to rule, although you can convert it into that question by the adoption of this amendment, but you are voting on the question as to whether you are going to furnish the opportunity for the Democracy, if it can prevail in 1934, to place Maine on a rum selling revenue basis and bring back the saloon with all its evils.

One more thought and I have finished. Some men with facile minds, if that is the way it can be expressed, will tell you their only objection, the sole objection they have to some change from outright repeal, is their sacred regard for the Constitution, that no sumptuary legislation should be included within the Constitution. But I do not know why we should quibble on the distinction between sumptuary leg-

islation and some other legislation. Constitutional law is fundamental law created for the purpose of protecting minorities.

The same gentlemen who think the Legislature should have absolute right to pass on the question of intoxicating liquor recognize full well that the Legislature must not have full right to pass on the question of income taxes or state debt, or any one of I do not know how many proposals banned from legislative action by Constitutional decree, no one of which could possibly justify such language as has been formally written into the record of the United States of America. And I quote you members of the Senate the language of our Supreme Judicial Court quoting the language of the Supreme Judicial Court of the United States of America. "It must now be regarded as settled that, on account of their well-known noxious qualities and the extraordinary evils shown by experience commonly to be consequent upon their use, a State has power absolutely to prohibit manufacture, gift, purchase, sale, or transportation of intoxicating liquors within its borders without violating the guarantees of the fourteenth Amendment."

There is no evil in this United States of America, there is no evil yet known to this civilization equal to the evil of the abuse of intoxicating liquors which brought this country to the adoption of the Eighteenth Amendment. The Eighteenth Amendment was an abominable failure. It has been properly repealed, but I submit to you that there is no justification for the State of Maine, and particularly for the Republican Party in the State of Maine, which for 75 years has closed the door to liquor commercialization within our borders, to submit to the people of the State of Maine a proposition which will permit commercialization by the legislature, when by the enactment of this simple amendment, the greater evil, the right of the legislature to impose upon our unwilling people, if they are unwilling, an enactment under the emergency clause, will be barred, and yet full, absolute control will be in the hands of the sovereign people of the State of Maine; and without any Constitutional change or delay they may from time to time

adopt such liquor legislation as they see fit.

I move, Mr. President, if I have not already, the adoption of Senate Amendment "A".

The PRESIDENT pro tem: Is there any member who desires to address himself to Senate Amendment "A"?

Mr. McDONALD of Washington: Mr. President, may the matter lie upon the table until later in the day?

Mr. VILES of Kennebec: Will the Senator from Washington, (Mr. McDonald), assign some definite time?

Mr. McDONALD: I will assign it for four o'clock this afternoon, Mr. President.

Thereupon, the bill and the amendment were laid upon the table pending the motion to adopt Senate Amendment "A", and especially assigned for four o'clock this afternoon.

(At this point the President assumed the Chair, Mr. Weatherbee of Penobscot retiring amidst the applause of the Senate.)

From the House, out of order,

Report of the Committee on Claims on "Resolve in favor of Charles Springer of Hartland" (H. P. 76) reported the same in a new draft (H. P. 144) under the same title and that it ought to pass.

In the House, the report was read and accepted and the resolve given its several readings under suspension of the rules and passed to be engrossed.

In the Senate:

Mr. KITCHEN of Aroostook: Mr. President, as a member of the Claims Committee, I feel perhaps I am in rather an unusual position at this time in opposing the passage of this claim. I want to frankly say that I was not present at the hearing because of the fact that I could not be in two places at one time. On that account I suppose and presume under ordinary conditions I should accept the report of the committee in their recommendation that this bill should pass in a new draft, but since then there has come to me information in regard to this claimant which leads me to believe that the committee must have been misinformed as to the merits of this claim. Now, I do

not wish to be unfair in this matter. My personal inclinations are that this claim should not pass but in order to arrive at the true facts of the case, and without delaying the bill to any great extent, I am wondering if the Chairman of the Committee on Claims, the Senator from Penobscot, Senator Weatherbee would state to the Senate just what the facts are as he found them in connection with the bill.

Mr. WEATHERBEE of Penobscot: Mr. President and Members of the Senate, the claimant was an employee of the Highway Department of the State of Maine, and was in charge of the operation of a power shovel in the construction of a state highway. The evidence disclosed that the State had made arrangements for the transportation to and from work of all unskilled laborers in state trucks, and that such laborers were covered by compensation insurance.

The claimant, in his operation of the power shovel, found it necessary to be upon the job half an hour before the other employees arrived and to remain at his work, cleaning the shovel, one hour after the departure of the state trucks with the other employees, and for his convenience he afforded his own transportation by motorcycle and took his helper with him. One afternoon after a very heavy shower rendering the roads in a very slippery condition, he started home upon his motorcycle. He was familiar with the roads. He knew that ahead of him was a very sharp turn in the highway and at that point while driving his motorcycle, the motorcycle tipped over and broke this claimant's leg.

This happened sometime either the 15th or 20th day of September and he is still laid up and his leg is in a cast. But it seems to me, that knowing the dangerous condition of the road and the very sharp turn, the duty was upon him to approach that curve with all due caution and care, and that had he done so, there would have been no accident whatever; that the accident was solely the result of his own carelessness, and for that reason I can see no reasonable basis for a claim against the State of Maine.

Should you pass the resolve, and the amount of it, \$250.00 is reasonable in this case with expenses of