

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Ninety-Third Legislature

OF THE

STATE OF MAINE

1947

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ment of Minors on Premises Where Liquor to be Consumed on the Premises is Sold (H. P. 1227) (L. D. 751)

An Act relating to Manufacturing Liquor (H. P. 1228) (L. D. 752)

An Act relating to Transfer of Liquor Licenses (H. P. 1229) (L. D. 753)

An Act Amending the Charter of the city of Brewer relative to Election Date and Filing of Petitions (H. P. 1288) (L. D. 942)

An Act Repealing the law relating to Prior Convictions in Offenses Against the Liquor Law (H. P. 1477) (L. D. 1091)

An Act relating to Income Accruing to the State (H. P. 1478) (L. D. 1092)

An Act Compensating Gardiner G. Deering of Bath, for Duties as Recorder (H. P. 1530) (L. D. 1112)

An Act relating to Civil Service Rules for Police and Fire Departments (H. P. 1532) (L. D. 1113)

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

Orders of the Day

The SPEAKER: Under Orders of the day, the Chair lays before the House the first tabled and today assigned matter, Resolve Proposing an Amendment to the Constitution Providing for Additional Signers in Petitions for Referendum. (S. P. 107) (L. D. 238) tabled on March 5th by the gentleman from Boothbay Harbor, Mr. Perkins, pending final passage; and the Chair recognizes that gentleman.

Mr. PERKINS: Mr. Speaker and Members of the House: I want to give you very briefly my reason for voting against this Constitutional amendment at this time.

Our forefathers, in adopting our Constitution, provided a method for the amendment of that document. First, a resolve proposing an amendment to the constitution must pass both houses of the Legislature by two-thirds vote; second, it must be accepted by the people. But first, before the resolve goes to the people, we must determine under our oaths as members of this House of the Legislature whether there is any necessity for any such change, whether there is any public demand for it.

I do not believe that the Con-

stitution should be amended lightly. Some states provide that a resolution amending the Constitution must pass two successive legislatures. It is a solemn matter to amend our Constitution, and, not seeing any demand or any reason impelling for use to propose this amendment, I shall vote "No" upon the pending question.

The SPEAKER: The Chair recognizes the gentleman from Cape Elizabeth, Mr. Chase.

Mr. CHASE: Mr. Speaker, in view of the fact that this proposed amendment in its earlier stages commanded the support of a substantial majority of this House although lacking the necessary two-thirds vote for enactment, it seems to me that further discussion is appropriate at this time. I think the public concern, or the public demand, to use the gentleman's words, is given some color of support by the vote which it did receive by a majority of the people's representatives in this House.

One of the greatest threats to our form of government is the growing power of organized minorities. From its very inception, the referendum has been for the most part the weapon of a minority. When it was adopted in 1908 at a general election at which 142,000 voted, only 53,785 people wanted the referendum at all. Twenty-four thousand voted against it. Only 55 per cent of the people voting, not all the voters, but the people voting voted at all.

It may be interesting to review as briefly as I can the history of referendum elections in this State. This does not include the public votes taken on constitutional amendments but the list does include every referendum election where the Legislature has called a referendum or where it has been invoked by petition.

In 1910—this was in the first two years of the referendum—the referendum was invoked on an Act to Divide the Town of York. It was also invoked on an Act Relating to Reconstruction of Portland Bridge, and although in that election 141,000 people voted only 50,000 people voted one way or the other on this measure.

On an Act to make Uniform Standard Relating to Percentage of Alcohol, in that same year, approximately one-half of the people voted one way or another.

In a special election which was called to provide for nomination of candidates by primary election, only 86,000 people out of 141,000 voting in the election at that time voted at all.

On the right of women to vote for presidential electors, which was held at a regular election in 1920 with 205,000 people voting, only 118,000 voted one way or the other.

On the special election when corporate Dexter P. Cooper of the Quoddy Corporation had his bill before the people less than 60,000 people voted at that time although there were in the State 300,000 voters.

In 1927, a bill was initiated to repeal the direct primary law. The bill called for the return to the old convention system without any change or reformation or improvement, and a special election was called on that bill. In the previous year 181,000 people had voted in this State, but on that act to repeal the direct primary and go back to the convention system as it was with no referendum whatsoever, only 57,000 people voted one way or the other.

In 1928, at a regular election on an act relating to the excise tax on railroads, which was well-publicized and upon which the people were well informed, there was a substantial vote; about 170,000 out of 215,000 voted one way or the other.

In 1929, on the referendum relative to the sale of surplus hydro-electric power or to modify the Fernald Act, with 213,000 people having voted in the latest election less than 120,000 voted one way or the other, and the opposition which defeated the bill was only 63,000 voters, which was about twenty per cent of the voters of the State at that time. And in the same election there was a vote on the increase on the tax on gasoline which the voters defeated.

Now I was in that Legislature in 1929, and the program which was evolved by a compromise in the Legislature was between those who wanted a big bond issue and those who wanted to pay as you go, and we finally found a mutual ground, we thought, by which we would shorten the term of the bond issue and make its retirement more rapid, and we would increase the gas tax, which was what the pay-as-you-go people wanted to do. That was a compromise program. The bond issue had to go to the people as a

constitutional amendment; the referendum was invoked on the increased gasoline tax, and the result was that the people defeated the gas tax and the whole financial program of the Legislature with respect to highways was upset. The people approved the bonds and refused to pass the bill which was to provide the money to pay the bonds.

On the special election called in 1931 on the so-called Code Bill, an act relating to the administration of the State, only 71,000 people voted. At the regular election in 1932, however, we find that an act relative to the tax on gasoline was defeated by 195,000 to 24,000.

An act creating the Deer Island-Sedgewick Bridge District, which involved the credit of the State in the opinion of the attorneys who gave an opinion on the bond issue, that was a referendum in which less than 30,000 people voted at all.

On the act to provide for Old Age Assistance, in 1927, when about 300,000 people had voted in the State in the previous year, only 120,000 people voted two to one against it, because it was a tax measure.

At a special election called in 1941 on a referendum imposing an additional gasoline tax, only 46,000 people voted in the entire State, something over two to one against it.

Now I think those figures show that the referendum is a weapon ideally adapted to the use of organized minorities by which this Legislature is held constantly in fear of having its program upset.

The original bill called for 30,000 signatures being required on a referendum petition. That was cut down to ten per cent of the vote in the previous election, which means that from 18,000 to 25,000 signatures will be required.

Now to go back and recapitulate briefly: The direct primary was established in the State by thirty per cent, and so was the Public Utilities Commission. Only about twenty per cent of the voters voted on the repeal of the direct primary and the return to the convention system, only twenty per cent voted at all. Only thirty-nine per cent voted on power export, and only about twenty-two per cent voted against. Less than thirty per cent voted on the Code Bill.

Now how can the referendum be used as the weapon of an organized

minority? We have frequently heard in this Legislature that no matter what tax bill we may pass, a referendum would be invoked against it, which means we really do not know whether or not we have any money here to spend.

When the initiative and referendum was adopted in the Legislature in 1907, the Legislature usually adjourned before April 1st, and it is perfectly apparent that the whole timing of the referendum provision was based upon the expectation existing at that time that the Legislature would get through by April 1st, that the 90 days required for the petitions to invoke the referendum would have to be in by June 1st, and that the sixty days requirement for calling the election would expire before the regular election was held for the election of Governor in September. That whole timing has been thrown out by the fact that this Legislature is now wondering if it will get home by May 1st. If it is May 1st, and the opposition to any bill passed here has 90 days to file a petition and files it on the last day, that referendum cannot be held at the regular September election, which means that the number of people voting on it will be small and the opportunity of an organized minority opposition will be very greatly increased. Now if on these petitions for referendum, which, under those conditions, cannot be held at the regular September election, the petitioners ask the Governor to call a special election, he has to do it. He has an option otherwise to carry it over to the next statewide election, but if they ask for a special election he has to call it, which means another situation where a very small minority in opposition to any measure here can upset everything we do. And that is a weapon which is going to be used and which can be invoked today with 10,000 signatures — 10,000, a number which was taken when the women did not vote and when the means of transportation were entirely different from what they are today; and this proposes to only go up from that figure to from 18,000 to 25,000, or ten per cent of the previous vote.

Now that is a weapon which ought not to be lying around in these times of minorities which frequently have a purpose far less patriotic than they used to have when they

were talking about the rights of the minority. And so I say that the referendum established by a minority has been the weapon for the most part of organized minorities ever since. It can be invoked lightly and easily; it can be the means of disruption and destruction of representative government.

Gentlemen, throughout the history of the world, wherever Freedom has seen the light — and those occasions have been rare indeed in the recorded history of government — wherever Freedom has seen the light, it has always been associated with free enterprise and with representative government. Democracy, popular government, has been on trial throughout history. We cannot say today that it has been successful. We are today the only survivor of a long history of government by the people which has fallen by their own excesses. Representative government has been, throughout history, the only salvation and the only implement of action by free men, and the best that can be said for the people in the light of history is that they usually act wisely when they know what they are doing. The referendum elections have frequently been invoked in situations where the people did not know what they were doing, when they would have been better advised and I believe would have been more glad to leave the decision to their own representatives in this Legislature.

Now this is a step, a very short step, back toward the restoration of representative government. It still leaves the referendum easy to invoke, but it makes it a little more difficult for a mere handful, a mere organized minority, to invoke it. I hope this measure will command the affirmative vote of two-thirds of the members voting.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. McGlaufflin.

Mr. MCGLAUFLIN: Mr. Speaker and Members of the House. I regret exceedingly that my friend, the gentleman from Boothbay Harbor (Mr. Perkins) cannot go along with me on this matter. I say that because I have a very high opinion of his opinion. I think he is one of the most valuable men in this Legislature. But the argument that he has put up to you I myself have used many times on the floor of this House: that you should find

that it is necessary before you vote to change the Constitution. But I myself find the necessity here now.

The gentleman from Cape Elizabeth (Mr. Chase) has just presented to you a most able argument that shows the necessity of this thing.

I debated this matter before you the other day. I want to say to you ladies and gentlemen of this House that I have had a great deal of experience in the matter of debate and argumentation. I know when an argument is sound, and I am telling you now that the argument which is put up by the gentleman from Cape Elizabeth (Mr. Chase) is sound, and I am going to present, repeating a little bit, another sound argument why we should change this Constitution.

As was pointed out, when this matter was adopted for ten thousand names we did not have the women's vote—and bear in mind that the population of Maine has increased largely since that referendum was adopted. Now if it required ten thousand names when we had 125,000 voters or 142,000 voters it is just plain logic and common sense to say that when you have twice that number of voters there should be more names on that referendum.

A few moments ago I counted 146 school children in that gallery, and I venture to say that every last child up there would admit that the argument I am putting up this minute is sound.

Now if you members will vote according to sound judgment, logic and common sense, you will vote to have this amendment. But I have found from long experience that if you are prejudiced, that if you have made up your mind already, that you just won't go along. I might as well argue to that wall as to talk to any of you, because I have never been able in my life but once to change a prejudiced vote, a prejudiced person. I did succeed once in getting Judge Emery of the Supreme Court to change his mind when he swore that he would not. (Laughter)

Now this requires a two-thirds vote. I know that most of you think the same way that I do. You so voted the other day. But, gentlemen, that is not enough. We have got to have a two-thirds vote. I have not the eloquence nor the ability to convince you, but it seems

to me that if you just use plain horse sense that you will realize that when it takes 10,000 for 142,000 voters that when you have more than 300,000 voters you ought to have more names on a referendum.

The argument that has been put up to you or an organized minority, how they can do things, has been made very clear. Four years ago we had up before this Legislature the question of whether the Constitution should be amended to put the road tax on highways. I argued against that thing with all the ability that I possessed, and men in this House and men in the Senate—and I can give you their names—to tell me that I was absolutely right on my argument, but some of them said they did not dare to vote according to their convictions, and some of them told me that they had pledged themselves to vote before they thought anything about it and could not go back on their word. That thing was put through by an interested organization that had a lobbyist up here all winter, and a powerful and influential one at that, and, by that organization, they put it over this Legislature. It went to the people and the people did not know anything about it, they had never heard the arguments against it, and they voted for it.

We are trying to do something at this Legislature. If we go home and do not pass the measures that we are supposed to, we will get it from one end of the State to the other that we were down here, a Legislature that did not do anything. If we are going to get any tax measure through, we have got to do it by a two-thirds vote or it will go back to a referendum and our efforts are killed so easy that it is fairly laughable. I am asking you members who use sound common sense to come up here and help us put this thing across.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Mills.

Mr. MILLS: Mr. Speaker and Members of the House: I hesitate to speak on the opposite side from my illustrious colleague and seatmate and also on the opposite side from the distinguished gentleman from Portland. However, it strikes me that the very able arguments which have been presented here this morn-

ing are arguments against the referendum, against having any referendum at all.

It has been said that we should make it more difficult for the people to have a referendum. I say to you that you will make it more difficult for some people to have the referendum if you pass this, but you will not make it more difficult for the people in organized minorities, against whom they have been speaking. Only yesterday, at the town meeting down in my home town, I was approached by a gentleman with a petition for an initiated bill, and with the petition was a letter from a well-known union buster in Portland who was seeking to initiate certain legislation, and that letter said that the man would have ten cents a signature for all signatures which he secured on this initiated bill, with a kitty behind them of probably ten thousand dollars, buying signatures at ten cents apiece.

Now the gasoline companies, the retail merchants and others won't have any difficulty in getting sufficient votes together to get a petition, whether it is 18,000 or 25,000, if they want a referendum on bills which we pass, but the poorer people, the people who cannot organize their financial interests in such a way, groups like the grange who do not put out large sums of money to influence legislation, will be cut off by this measure.

Remember, it was only a few years ago that the Grange initiated or attempted to initiate a certain bill, and they failed for lack of securing sufficient signatures. I venture to say that if the solicitors for signatures had been receiving ten cents apiece they would have had no difficulty in securing them.

So by passing this bill you will not be taking the referendum away from these organized minorities—and that has been the argument that has been presented, that you will be able to do it all right; but the less organized groups, the less articulate minority, people who have been doing a lot of thinking, on issues, will find it impossible.

I wish to point out one of the impracticable things in the way the bill is set up as amended, and that is that the number required is based upon ten per cent of the vote cast in the last preceding gubernatorial election. Some years, in a

presidential year particularly, we get a very large vote in the gubernatorial election, somewhere over 230,000. Then your required signatures during the next biennium would be 23,000 or 25,000, something like that. In an off year the gubernatorial vote drops down to 175,000 or 180,000, and then your requirements for a referendum would be ten per cent of that figure, which would be considerably less.

So I say if you are against the referendum, if you are against the initiative and those forms of democratic expression, go ahead and pass this measure, but if you are for keeping it for the people where the people can use it, vote "No" on this measure.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker and Members of the House: The thought just occurred to me that since 1936, according to the figures used by me when I was speaking last week, that our vote during our September election has dropped off since 1936 from 320,000 to 179,000 this last year. This bill calls for ten per cent of the vote. According to the rate we are going down now, we might as well leave it as it is, because 10,000 will be sufficient anyway.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Sleeper.

Mr. SLEEPER: Mr. Speaker and Members of the House: I wish to correct an impression that people have that one reason that I took this monitor's job was so that people would not know how I voted. For that reason, I am going to tell you that on this measure I will vote "No." I will not duck behind the fact I am a monitor.

My reasons for voting "No" are several. The arguments of the proponents of the measure seem to convince me that for that reason I should vote "No." I cannot agree by any means that the referendum is the weapon of the majority; I would say very definitely that the referendum is the shield of the minority.

Another proponent of the bill mentioned that fact that this Legislature could easily be influenced by powerful lobbies to pass certain measures and then those same powerful interests could influence the vote on a referendum. For that reason, I would say again that we should make this referendum more

easily obtainable for the minority. I still insist the referendum is not a weapon; it is the shield of the minority, and let us not take it away.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Haskell.

Mr. HASKELL: Mr. Speaker and Members of the House: It seems to me that it might be well to keep in mind exactly what a referendum is under our Constitution. It is an objection by the people to some act or resolve that is passed by the Legislature. It may be put to a special election or to a general election. As long as it may be submitted to a special election, it seems to me only fair that the people who are objecting should have to convince one voter in ten that that measure should go to the people. I do not think it is a question of its being a shield to the minority or a threat by the minority; I think it is entirely proper that the people should have a check on the Legislature. At the same time, before groups subject the State to the expense of a special referendum election, it does seem to me they should show by their petition that one voter in ten, a very small minority, that one voter in ten feels there is objection to some measure. I see no harm in the passage of this act.

The SPEAKER: The Chair recognizes the gentleman from Greenville, Mr. Rollins.

Mr. ROLLINS: Mr. Speaker and Members of the House: I fail to feel that it is important to weigh the expense possibly of a special election against taking the rights away from the people. I believe that the people have a right to speak, and in the passage of this bill you are making it more difficult for them to speak. I have always said, and I say again, that the least represented in the State of Maine are the people. I hope the bill does not receive passage.

The SPEAKER: The Chair recognizes the gentleman from Woodland, Mr. Brown.

Mr. BROWN: Mr. Speaker and Members of the House: I want to go on record before this House as supporting the gentleman from Boothbay Harbor (Mr. Perkins) in his stand on this measure.

It seems to me, if I recall history right, our past two wars have been fought to defend the rights of minorities. Are we in this State go-

ing to forget about the rights of so many of our young men who lie buried in foreign soils and who died protecting the rights of minorities in these wars across the sea? I want to say that I am surprised, this being my first time in the Legislature in the State of Maine, to hear the statements made here that we are afraid of minorities here in the State of Maine, this State that we are all so proud to live in. I am not afraid of any minority organization that exists in this State. I think this referendum should be kept so that if there are any questions that we feel should be submitted to the people of the State that the requirements will not be so high that it would be impossible for them to circulate those petitions to submit the matter back to the people. Let us allow the people in the State of Maine to decide these issues and not be afraid to submit them to them.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Bickford.

Mr. BICKFORD: Mr. Speaker, this is my initiation. Why not pass along all important bills to referendums? I wonder if that would be good legislation. Now it seems to me that we are sent here to represent the people, and if a small minority can change over our judgment I should say we had better stay at home.

The SPEAKER: The Chair recognizes the gentleman from Chelsea, Mr. Harris.

Mr. HARRIS: Mr. Speaker and Members of the House: It would seem to me that if back in 1908 ten thousand signers would be needed, then it would be only common sense that we should have twenty-five thousand now.

The gentleman from Farmington (Mr. Mills) spoke about the Grange being unable to get ten thousand signers for a measure. Now I am a Granger and Master of a Grange now, and I am quite sure that if the Grange as a body were behind that they could have easily got ten thousand names. I think this measure should pass and that now we should have twenty-five thousand signers for a referendum.

The SPEAKER: Is the House ready for the question? The question before the House is on the final passage of Resolve, Proposing an Amendment to the Constitution Providing for Additional Signers in

Petitions for Referendum. (S. P. 107) (L. D. 238). This being a Constitutional amendment, it requires two-thirds vote of the House. All those in favor of final passage of the resolve will please rise and remain standing until counted and the monitors have made and returned the count.

A division of the House was had.

The SPEAKER: Ninety-two having voted in the affirmative and forty-five in the negative, and ninety-two being more than two-thirds, the Constitutional amendment has received final passage. It will be signed by the Speaker and sent to the Senate.

The SPEAKER: The Chair now lays before the House the second tabled and today assigned matter, "An Act Guaranteeing Loans for Veterans." (S. P. 77) (L. D. 104) tabled on March 7th by the gentleman from Portland, Mr. Bowker, pending passage to be enacted.

The Chair recognizes the gentleman from Portland, Mr. Meloon.

Mr. MELOON: Mr. Speaker and Members of the House: This bill was tabled by me on March 6th, and in my absence on the 7th was retabled by Mr. Bowker in my behalf. I originally tabled the bill for further scrutiny of the phraseology of an amendment adopted thereto, and, having found it entirely satisfactory, Mr. Speaker, I now move this bill be passed to be enacted.

Thereupon the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

On motion by Mr. Bell of Thomaston, the House voted to take from the table the eighth tabled and unassigned matter, Bill "An Act to Prohibit Music, Dancing, or Entertainment on Certain Premises Licensed for the Sale of Liquor." (H. P. 1099) (L. D. 674) In the House read twice and tabled on February 27th by that gentleman pending third reading.

The SPEAKER: The Chair recognizes the gentleman from Thomaston, Mr. Bell.

Mr. BELL: Mr. Speaker, I now offer House Amendment "A." This amendment has the approval of the sponsor of this bill, the gentleman from Auburn, Mr. Williams.

House Amendment "A" was read by the Clerk as follows:

House Amendment "A" to H. P. 1099, L. D. 674, Bill "An Act to Pro-

hibit Music, Dancing or Entertainment on Certain Premises Licensed for the Sale of Liquor."

Amend said Bill by inserting in the 5th line thereof, after the word "No", the underlined word 'full-time'

Further amend said Bill by adding at the end of that part designated "Sec. 37." the following underlined paragraph:

'Nothing in this section shall be held to prevent the commission from issuing part-time summer licenses subject to such rules and regulations as it shall deem necessary. No such part-time summer licensee shall permit music, dancing or entertainment on licensed premises unless the licensee shall have obtained a permit from the commission therefor. The fee for a part-time summer amusement permit shall be \$10 per license year and may be revoked by the commission at any time when it appears to the commission that the use of the permit by the licensee has resulted in disorder, disturbance or illegality or that the premises are not adequately policed, and no such permit shall be issued by the commission unless the applicant shall have first obtained the approval of the municipal officers of the municipality in which the licensed premises are situated.'

House Amendment "A" was adopted and the bill was given its third reading and passed to be engrossed as amended and sent up for concurrence.

On motion by Mr. DeSanctis of Madison, the House voted to take from the table "An Act relating to Local Option Provisions (H. P. 355) (L. D. 225) tabled by that gentleman earlier in today's session, pending passage to be enacted.

On further motion by the same gentleman, under suspension of the rules, the House voted to reconsider its former action whereby the bill was passed to be engrossed on February 28th.

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

House Amendment "A" was read by the Clerk as follows:

House Amendment "A" to H. P. 355, L. D. 225, Bill "An Act Relating to Local Option Provisions," section 2 by inserting in the sixth

Amend the sixth paragraph of line thereof, after the word "carry",