

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-Sixth Legislature

OF THE

STATE OF MAINE

1933

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thereof the word 'alderman' and by striking out in the ninth line of the said bill the word 'alderman' and by inserting in said bill after the word 'councilman' in the ninth line thereof the words 'fifty; for'. Further amend said bill by striking out in the twelfth line of Section 2 thereof the words 'last Monday in February' and inserting in place thereof the words 'third Monday in November'. Further amend said bill by striking out in the sixth, seventh and eighth lines of Section 5 of said bill the figures '25, 9', and '2' respectively and inserting in place thereof the figures '1', '11', and '14' respectively. Further amend said bill by inserting at the end thereof a new section to read as follows: 'Section 7. Inconsistent acts repealed. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed insofar as they are inconsistent with the provisions of this act.'

Mr. LITTLEFIELD of York: Mr. President, I would like to have this lie upon the table until tomorrow morning. Some of the Senators think that possibly it ought to be looked over. I don't know but I would like to have it lie upon the table until tomorrow morning.

Thereupon, the bill was laid upon the table pending adoption of Senate Amendment "A" and tomorrow morning assigned.

The President laid before the Senate, New Draft—An Act relating to transportation of intoxicating liquor (S. P. 614, L. D. 986), tabled earlier in today's session by Mr. Weatherbee of Penobscot, pending passage to be engrossed and this afternoon assigned; and the Chair recognizes that Senator.

Thereupon, Mr. Weatherbee of Penobscot offered Senate Amendment "A" and moved its adoption:—

"Senate Amendment "A" to An Act Relating to Transportation of Intoxicating Liquor (S. P. 116, D. L. 163, N. D. 986)

Amend said Act by adding thereto the following sections:—

'Sec. 2 R. S. c. 137, Par. 6, amended. Section 6 of chapter 137 of the revised statutes is hereby amended by striking out everything after the word "origin" in the 2nd line.

'Sec. 3 R. S. c. 137, Par. 1, amended. Section 1 of chapter 137 of the revised statutes is hereby

amended by striking out the word "fit" in the 3rd line thereof.'

Mr. WEATHERBEE of Penobscot: Mr. President and members of the Senate, in explanation of this amendment I wish to inform you that the bill which has already been given its second reading provides for the repeal of Section 3 of the liquor laws of the State of Maine and that particular section made it unlawful for anyone to transport intoxicating liquors, and that would be any liquors which contained more than one-half of one percent of alcohol; made it unlawful to transport those liquors from place to place within the State of Maine without a Federal permit. Well, if you had a Federal permit you couldn't obtain any liquors in the State of Maine to transport, so that statute should be repealed because if it were left upon the statute books it would prevent any person from transporting even beer that contained more than one-half of one percent of alcohol from his office to his home or from place to place anywhere in Maine and would subject him, if he were carrying it in his automobile, to the loss of his automobile and three months in jail and a fine of \$300. Of course, everyone feels that that section should be repealed.

Now, Section 2 of this amendment amends Section 6 of Chapter 137 of the Revised Statutes by striking out every word after the word "origin" that appears in that section. Now, that section forbids the sale of intoxicating liquors of any origin. I have stricken out those words that say that ale, porter, beer, strong beer, lager beer or any malt beer shall be deemed to be intoxicating, because the question should be one of fact. Are those beverages intoxicating or are they not?

The next amendment affected is the amendment to Section 1 of Chapter 137 which is amended by striking out the word "fit". That is a manufacturing section and in that it is made unlawful for anyone to have in his possession wort or mash fit for distillation. Of course "distillation" means the making of spirits or something stronger than beer but the language subjects you to punishment if you have in your possession anything fit for that purpose whether you intend to use it for that purpose or not, and I say that is unfair. You may have it for beer

purposes, non-intoxicating beer. So I got rid by the elimination of the word "fit" of the provision that it shall be unlawful to have it for the purpose of making spirits.

Now, this is what some have termed the beer bill. It is in strict conformity with the Constitution of the State of Maine. It gives, as it should, the people of the State of Maine all their constitutional rights. It does not make it possible for any person to sell any intoxicating liquors in the State of Maine. It puts the laws of our statute books back where they were before the enactment of the Volstead Law and where they were for thirty or forty years. Every friend of temperance ought to be satisfied with this. All those who believe in the 26th amendment to the Constitution of Maine ought to be satisfied because it conform strictly with the Constitution. It renews our law forbidding the sale of intoxicating liquors, and that ought to be satisfactory.

There may be some who will say that you ought to have made it possible under our laws to sell a 4% beer or something like that but if the Legislature of Maine were to enact a bill of that kind it would not be operative if that particular kind of beer was intoxicating. It would be in conflict with our Constitution and the court would so declare it. By making the prohibitions just against intoxicating liquors it gives us a right to sell in Maine any of those beverages which are not intoxicating and while the Federal government has enacted a beer bill permitting the sale of 3.2% beer by weight yet that may or may not be constitutional. The Federal constitution in this respect is identical with our own and Congress would not have the power to authorize the sale of any intoxicating liquor. That question will presumably be settled early by the Supreme Court of the United States and that Court will rule whether 3.2% beer is intoxicating. If it is, then the Federal beer bill falls by the wayside. If the Supreme Court of the United States should rule that it was not intoxicating it would be quite reasonable, I assume, to expect that the Courts of the State of Maine would follow that rule and if they did of course it would be possible to sell in Maine 3.2% beer because it would not be intoxicating.

Now, with my associates we have covered this broad proposition and

condensed it in these amendments. It is very probable that when this bill goes to the House that body will attach to it revenue features. That we cannot do because those matters must originate in the other branch but presumably the State will get considerable revenue from the bill.

I move the adoption of the amendment.

The PRESIDENT: The question is on the motion of the Senator from Penobscot, Senator Weatherbee, that Senate Amendment "A" be adopted.

Thereupon, Senate Amendment "A" was adopted and the bill as amended by Senate Amendment "A" was passed to be engrossed.

Sent down for concurrence.

The President laid before the Senate, An act to permit the manufacture and sale of non-intoxicating malt beverages; to derive revenue therefrom; and to create a legal definition of the term "saloon." (H. P. 38, L. D. 22), tabled earlier in today's session by Mr. Weatherbee of Penobscot pending consideration, having been previously recalled from the files, and this afternoon assigned; and the Chair recognized that Senator.

Thereupon, on motion by Mr. Weatherbee of Penobscot, the bill was returned to the files.

On motion by Mr. Story of Aroostook, the rules were suspended and that Senator presented, out of order, the following order, and moved its adoption:

Ordered, the House concurring, that a survey be made under the direction of the Governor and Council to ascertain the extent to which wood can be used as fuel in all state controlled plants, and be it further ordered that those in control of the fuel supplies purchased from the state funds are hereby directed to use wood when found practicable so to do.

Thereupon, the order received a passage.

On motion by Mr. Harmon of Hancock, the Senate voted to reconsider its action taken earlier in today's session whereby, An Act relative to closed time, daily bag limit and transportation of wild hares and rabbits (S. P. 608, L. D. 981) was laid upon the table pending passage to be engrossed as amended by House Amendment "A"